

Salmon Fisheries (Ireland) Bill (No. 2).

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A
B I L L

TO

Consolidate and amend the Laws relating to the Salmon and Inland Fisheries of Ireland. A.D. 1871.

WHEREAS it is expedient to consolidate and amend the laws relating to the Salmon and Inland Fisheries in Ireland:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.—PRELIMINARY CLAUSES.

1. This Act may be cited for all purposes as "*The Salmon and Inland Fisheries (Ireland) Act, 1871.*" It shall extend to Ireland only, and shall come into operation on the *first day of January one thousand eight hundred and seventy-two.* Short title.

2. Nothing in this Act contained shall prejudice or affect any public rights heretofore enjoyed of netting, angling, or otherwise fishing in tidal, or navigable, or other waters. Savings of Rights of fishing, &c.

3. From and after the time when this Act shall come into operation, the several Acts herein-after mentioned (save so far as they relate to oysters and sea-fish fisheries, or anything connected therewith, and except as to offences committed, penalties or liabilities incurred, securities given, contracts entered into, acts done, or byelaws made under, or legal proceedings instituted before this Act comes into operation) shall be and they are hereby repealed; that is to say, Repeal of Acts.

The Act of the sixth year of Her present Majesty, chapter one hundred and six:

25 The Act of the eighth year of Her present Majesty, chapter one hundred and eight:

The Act of the ninth year of Her present Majesty, chapter one hundred and eight:

[Bill 227.]

A

A.D. 1871. The Act of the tenth year of Her present Majesty, chapter one hundred and fourteen :

The Act of the twelfth year of Her present Majesty, chapter ninety-two :

The Act of the fourteenth year of Her present Majesty, chapter 5 eighty-eight :

"The Salmon Fishery (Ireland) Act, 1863:"

The twenty-fourth and twenty-fifth sections of the Act of the twenty-fifth year of Her present Majesty, chapter ninety-six :

The Act of the twenty-sixth year of Her present Majesty, chapter 10 ten :

The fourth section of the Salmon Fishery Act (Ireland), 1869:

The tenth section of "The Fisheries (Ireland) Act, 1869;" and all other Acts and parts of Acts inconsistent with the provisions of this Act.

15

Definitions.

4. In the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the words herein-after mentioned shall be construed as follows; that is to say,

(a.) "Board" or "conservators" shall mean the board of con- 20 servators for the district in which the fishery shall be situate :

(b.) "Close time" shall mean and include any time within which it is or shall be prohibited either by statute or by-law to fish for, take, or destroy any salmon, trout, or any fish of any of the kinds in this Act referred to, or the brood, 25 spawn, or fry thereof :

(c.) "Estuary" shall mean and include any harbour, roadstead, or bay :

(d.) "Fisheries" shall mean and include all fisheries, whether several or public :

30

(e.) "Fishing milldam" shall mean a dam used or intended to be used partly for the purpose of catching or facilitating the catching of fish, and partly for the purpose of supplying water for milling or other purposes :

(f.) "Fishing weir" shall mean any standing weir or dam, of 35 what nature or kind soever, at any time exclusively used, or intended to be used for catching or facilitating the catching of salmon, trout, or eels :

(g.) "Fixed engine" shall extend to and include weirs (except "fishing weirs" and "fishing milldams"), stake, bag, stop, 40 and still nets, head weirs, and all other engines, devices, machines, or contrivances, whether floating or otherwise, for placing or erecting nets, or making them stationary, and all nets, engines, devices, machines, or contrivances

used for the like purposes, of whatsoever construction or materials the same may be, or however known or styled, and whether fixed to the soil or held by hand, or made stationary in any other way:

5 (k.) "Inspectors" shall be construed "inspector" when there shall be only one, and all the provisions and enactments of this Act as to inspectors shall be applied to "the inspectors of Irish fisheries," under "The Fisheries Act (Ireland), 1869 :"

10 (i.) "Land" shall mean and include all messuages, lands, tenements, and hereditaments:

(j.) "Lord Lieutenant" shall mean the chief governor or governors of Ireland for the time being:

15 (k.) "Net" shall mean and include all descriptions of tackle, trawl, trammel, stake, bag, coghill, eel, haul, draft, and seine nets, and all other engines or devices, of whatsoever construction or materials, or howsoever known or styled, which shall be used for the like purposes as those in this Act referred to:

20 (l.) "Occupiers" shall include any person for the time being in actual possession of the fisheries and premises in respect of which that word is used, whether such person is owner or not:

25 (m.) "Otter" shall mean and include any small boat or vessel, board, or stick used for the purpose of running out halts, or flies, whether artificial or otherwise, across any portion of any lake or river, and whether used as auxiliary to rod and line, or used by means of a hand-line:

30 (n.) "Owner" shall mean and include every person receiving the rents of the property in respect of which that word is used from the occupier of such property on his own account, or as trustee or agent for any other person, or as receiver or sequestrator under the order of any court, or who would receive the same if such property were let to a tenant. Wherever the owner of any lands or fisheries, or
35 any person interested in any question relating to a fishery, shall be a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustee, committee of the estate, or husband of such owner or person, or the attorney or agent of such guardian, trustee, committee, or husband (as the case may be) duly appointed, shall be deemed for the purposes of this Act to be the owner of such lands or fisheries:

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- (o.) "Person" or "owner" shall mean and include any body corporate, aggregate or sole, as well as an individual, and also any company, partnership, or association:
- (p.) "Rivers" shall include and mean tributaries of rivers, and lakes, streams, and watercourses: 5
- (q.) "Salmon" shall extend to and include grilse, peall, bull trout, sea trout, samlets, par, jenkins and gravelling, and all other fish of the salmon kind, and the spawn and fry thereof:
- (r.) "Several fisheries" shall mean and include all fisheries lawfully possessed and enjoyed as such under any title whatsoever, being a good and valid title at law, exclusively of the public, by any person, whether in waters navigable or not, and whether the soil covered by such waters be vested in such person or in any other person. In all rivers or parts of rivers or lakes where the tide does not ebb and flow, which by law are not deemed public navigable rivers or lakes, and in which no such exclusive fishery as aforesaid shall have been possessed and enjoyed, the owners in fee of the adjoining lands shall be considered to be possessed of a several fishery within the bounds and limits of the said lands, or so far as they are seized or possessed of the soil and bed of such rivers or lakes: 10
- (s.) "Spring tides" shall mean "ordinary spring tides."
- (t.) "Stroke-haul" shall mean and include any hook, spike, or other engine or device used for the purpose of being struck into the body of any fish, and whether same be weighted with lead or other metal or not; provided that nothing in this definition contained shall apply to fair angling: 15
- (u.) "Trout" shall extend to and include pollen or fresh-water herring, and all fish of the fresh-water trout kind, and the spawn and fry thereof: 20
- (v.) "Waste" shall include and extend to any and to all uncultivated or unprofitable lands.

PART II.—POWERS OF INSPECTORS OF IRISH FISHERIES. 35

Common seal.

5. The inspectors of Irish fisheries shall cause a seal to be made, and shall cause to be sealed therewith all orders and instruments made by or proceeding from them under this Act, and such seal shall be judicially taken notice of in all courts.

Appointment of officers.

6. *The inspectors, with the consent of the Commissioners of Her Majesty's Treasury, may from time to time appoint such officers, clerks, and servants, and at such salaries as the said Commissioners* 40

of the Treasury may think proper, and from time to time dismiss such officers, clerks, and servants, and appoint others in their place; and all salaries and the expenses of carrying this Act into execution shall be paid out of such moneys as shall be provided by Parliament.

7. An office shall be provided in the city of Dublin in which the business of the commission shall be transacted, and all books, papers, and documents kept, and all orders made, made up, or signed at such office shall be valid to all intents and purposes, though same may relate to inquiries or other proceedings in any other part of Ireland, and may be made, signed, dated, or made up at any time after the pronouncing or delivery thereof.

8. The inspectors may hold meetings of owners of fisheries and other persons interested therein in any district, on giving notice by advertisement or otherwise of the time and place when and where such meetings are appointed to be held, to inquire into the state of the fisheries in such district, and the best means to be adopted for the regulation, improvement, or protection thereof, and may issue summonses requiring the attendance of witnesses at any meeting or inquiry, and may at such meeting or inquiry, or whenever they may deem it necessary, examine witnesses on oath, touching the subject matter thereof, or in relation to such fisheries.

9. All such meetings and inquiries, and all other inquiries which the inspectors shall hold under this Act, shall and may be held in the district in any convenient court in which quarter sessions for any division of any county or riding part of which is included in such district are held.

10. With respect to the following matters, that is to say,

- (1.) Enforcing the attendance of witnesses, and answers by them, the production of deeds, books, papers, and documents:
- (2.) The enforcing any order whatever made by them, or by any inspectors or commissioners acting under any of the Salmon Fisheries Acts:

the inspectors shall, in addition to any other powers conferred on them by this Act, have all such powers, rights, and privileges as the judges of Her Majesty's Court of Queen's Bench in Ireland have for such or the like purposes, and all witnesses summoned as aforesaid shall also be liable to the same penalties for neglecting or refusing to attend or to give evidence before the inspectors, as are or shall be provided in the case of any person refusing to attend or give evidence before any justice or justices of the peace.

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Perjury.

11. Every person who upon examination before the inspectors, or any one of them, wilfully gives false evidence, and every person who wilfully swears, affirms, or declares falsely in any affidavit relating to any matter within the cognizance of the inspectors, shall be guilty of perjury. 5

Powers of inspectors.

12. The inspectors, or any officer appointed by them for the purposes of this Act, may use and exercise all and every the powers and authorities for enforcing the provisions of this Act, and the apprehension of offenders which are by this Act conferred upon the officers or men of Her Majesty's cruisers, and of the coastguard 10 stations and water bailiffs respectively.

Mandamus and certiorari taken away.

13. The inspectors shall not be subject to be restrained in the execution of their powers under this Act, nor shall any person be restrained by order of any court of justice or by any other legal process from making an application under this Act to the in- 15 spectors, nor shall they be required by writ of mandamus, or any writ of a like nature, to do any act or take any proceeding under this Act, nor shall any order be quashed, set aside, or adjudged void or insufficient for want of form only, nor shall any proceedings before them be removable by certiorari or other writ of a like 20 nature.

Report to Lord Lieutenant.

14. The inspectors shall, on or before the first day of April in every year, make a report to the Lord Lieutenant of the proceedings for the preceding year, and of the receipt and expenditure of any sums of money which the inspectors shall receive or expend, 25 distinguishing the amount received on account of any penalties, and the officer or person from whom the same may have been received; and such report shall also contain, as far as may be practicable, a statistical account of the said fisheries, arranged and classified under such different heads as may appear to the inspectors 30 to be most suited and adapted for the purpose, or as may from time to time be directed by the said Lord Lieutenant, or other chief governor or governors; and a copy of every such report shall be laid before each House of Parliament, if then sitting, or within three weeks after the commencement of the next session. 35

Resisting inspectors in execution of duty.

15. If any person shall assault, resist, or obstruct the inspectors, or any person acting by their authority, in the execution of any of the powers conferred on them by this Act, or by any rule, order, or byelaw to be made in pursuance of this Act, every person so 40 offending shall, for every such offence, forfeit and pay any sum not less than one pound, and not exceeding ten pounds.

PART III.—BYELAWS OF INSPECTORS.

Power of
inspectors
to make
byelaws.

16. The inspectors may from time to time make and ordain such byelaws as to them shall seem expedient for the more effectual government, management, protection, and improvement of the salmon fisheries of Ireland, and may from time to time repeal, rescind, or vary the same, or any existing byelaws, and substitute others in lieu thereof, and shall have and continue to have and exercise any powers now vested in them, and shall have power to—

- (a.) Impose and prescribe any conditions and restrictions for the regulation of the said fisheries, and the preservation of good order among the persons engaged therein;
- (b.) And shall have power to make rules and regulations as to the times and places, rivers or parts of rivers, and lakes in which or the manner at and in which any nets or engines to be employed in the said fisheries shall be used, and also as to the description and form of nets to be used in the said fisheries, the extreme length of such nets, and the size of the meshes thereof, or to the prohibition thereof, or of any practice whatsoever, tending in the opinion of the inspectors to impede the taking of fish, or to be in any manner detrimental to the said fisheries;
- (c.) And shall have power to prohibit the use at any time or season and for any time they shall think fit of any engine or device for the capture of fish which, upon inquiry had, the inspectors shall deem to be injurious to the fisheries;
- (d.) And shall have power to make byelaws as to any other matter or thing which shall in any manner relate to the government and protection of the said fisheries;
- (e.) And the inspectors, in all cases where any penalty is not fixed by this Act, in the case of any matter or thing prohibited by this Act, or by any byelaw of the inspectors or conservators, may impose a penalty, either by a fixed sum not exceeding *twenty pounds*, or by specifying a *maximum penalty not exceeding that sum*, and fixing a *minimum penalty* for any breach of any such byelaw;
- (f.) And the inspectors may direct that all engines or other instruments used contrary to any of such byelaws, and all fish so taken, shall be forfeited, seized, destroyed, or otherwise disposed of as they shall think fit:

40 Provided always, that no such byelaws shall be repugnant to any law or statute in force in Ireland, and that such byelaws shall be

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Byelaws to
be printed.

approved of and confirmed by the Lord Lieutenant in Council; and such byelaws, when so approved and confirmed, shall be binding and conclusive on all persons as if the same had been contained in and enacted by this Act.

Copies of
byelaws to
be deposited
with clerk
of peace.

17. One month at least before any such byelaw shall be laid ⁵
before the Lord Lieutenant in Council for his approval, a copy of
the same shall be deposited with the clerk of the peace for each
county in any part of which it is proposed to be enforced, and with
the clerks of the conservators for each district to any part of which
it is to apply, and a notice of such lodgment thereof shall twice ¹⁰
in each week of such month be published in such newspaper or
newspapers as the inspectors shall think fit; and any party who
may consider himself aggrieved by any such intended byelaw may
appeal to the Lord Lieutenant in Council against such intended
byelaw. ¹⁵

Publication
of byelaws.

18. All such byelaws when approved and sanctioned as afore-
said shall be printed, and a copy of the same shall be deposited
with the clerk of the peace for each county in any part of which any
such byelaw is proposed to be enforced, and with all the coast-
guard officers at the different stations, and with the clerks of the ²⁰
petty sessions, and the clerks of the conservators for each district in
which it is proposed the same shall be enforced, and in such other
places as to the said inspectors shall seem fit; and printed copies
of such byelaws shall be provided by the inspectors, and sold at
a price not exceeding *one penny* for each copy, and notice both of ²⁵
the publication of the same and the place where the same may be
bought shall be given in such newspapers, at and for such time
as the said inspectors shall appoint; and for the purpose of con-
victing any person offending against any of the said byelaws, a
printed copy of such byelaw obtained from the office of any clerk ³⁰
of the peace or clerk of the petty sessions (who is hereby required to
furnish the same at the price aforesaid), with whom the same may
be lodged, and purporting to be certified by him to be a true copy
thereof, shall be received and taken as full and sufficient evidence
thereof. ³⁵

19. The inspectors shall publish once every year all the byelaws,
whether made by inspectors or conservators, in force in Ireland.

PART IV.—PROCEDURE OF INSPECTORS AS TO ILLEGAL FIXED ENGINES OR WEIRS.

Proceedings
in case of
weirs and

20. In case any fixed engine or fishing weir for catching salmon ⁴⁰
or trout, or any part thereof, was or at any time after the passing

of this Act shall be so placed and erected or used as in the judgment of the inspectors to be injurious to navigation, or shall be so erected, continued, or used in contravention of this or any other Act of Parliament or law in force in Ireland, the inspectors shall,

A.D. 1871.
engines in-
jurious to
navigation.

- 5 by summons under their common seal, and signed by one inspector, or by any other person by their order, summon before them the party erecting, placing, continuing, or using such fixed engine or fishing weir, or if he is absent or dead, or under incapacity, then the occupier of the land whereon or next adjacent to which the same
10 is so erected, or the owner of such land, if the same shall not be occupied, to attend at such court-house as aforesaid, within the district in which such fixed engine or fishing weir, or any part thereof, may be so erected, placed, continued, or used; and all the inspectors for the time being shall attend at the time and place men-
15 tioned in any such summons, and at any other time or place to which the hearing, or any part of it, or the decision may be adjourned: Provided that this section shall not apply to any weir or fixed engine for which a certificate has been already given by any inspectors or commissioners.

- 20 21. Upon proof of the personal service of such summons, or upon proof of such summons having been left at, or sent by post in a registered letter to, the last known residence of the party so required to be summoned, the inspectors shall proceed to inquire into the legality of such fixed engine or fishing weir, and to hear
25 all such pertinent evidence as may be adduced before them; and after hearing all such evidence they shall (whether the party so summoned shall have appeared or not at such hearing) either then and there, or at any other time and place to which an adjournment may be made, or at the office of the inspectors, either
30 give a certificate that such engine or weir is lawful or make an order in writing under their hands and seal declaring that such fixed engine or fishing weir (or any part thereof which is in their judgment injurious to navigation, or of which they shall be satisfied of the illegality) shall be abated and removed; and the
35 inspectors shall afterwards, by warrant under the hands of all the inspectors for the time being and under seal as aforesaid, direct or authorise some proper person to abate and remove such fixed engine or fishing weir, or part thereof (as the case may be), at the expense of the party summoned, or of such party as shall appear to the
40 inspectors to have erected, placed, continued, or used the same, or suffered such erection, placing, continuance, or user, and thereupon the same shall be abated and removed accordingly.

Hearing of
case.

[227.]

B

- A.D. 1871. 22. It shall be lawful for the inspectors to order and direct that the materials of any such fixed engine or fishing weir, or any part thereof, shall be forfeited and sold, and the produce arising from such sale applied in such manner as is hereby provided with respect to the produce arising from the sale of legal nets illegally used for fishing. 5
- Forfeiture of materials.
- Undertaking as to free gap. 23. Where a fishing weir is illegal only by reason of its not having a free gap, as required by law, it shall not be lawful for the inspectors to remove such fishing weir, if an undertaking be entered into to the satisfaction of the inspectors, by the owner or other person interested in such weir, to make a free gap therein pursuant to this Act, 10 according to the direction of the inspectors, within a time to be prescribed by the inspectors.
- Orders to be recorded. 24. All orders which shall be made and certificates given by the inspectors shall be kept and recorded in the said office by the inspectors, and a copy of each order and certificate shall be deposited 15 with the clerk of the peace of every county to any part of which, or the sea bordering on any part of which, the same shall relate; and in any court, or elsewhere, any document purporting to be a copy obtained from the office of any such clerk of the peace as aforesaid, and to be certified by him to be a true copy of the document so lodged shall be received as evidence of the existence and contents of 20 such order, and of the lodgment thereof, without further proof.
- Certified copies. 25. Any document purporting to be a summons, order, certificate, warrant, or other instrument, and to be sealed with the said common seal, and to be signed by or by the order of the inspectors, and any 25 document purporting to be a copy of any of such instruments, and to be sealed as aforesaid, and to be certified by the inspectors, or one of them, or by their order, shall be received as evidence of the existence and contents of such instrument, or of that of which it purports to be a copy, without any further proof. 30
- Owner may appoint agent. 26. Any landowner or fishery owner, by writing under his hand, may appoint an agent to act for him in reference to the provisions of this Act, and every such agent may act and be dealt with in all respects as such person himself at all meetings and proceedings, and do all acts for the purposes of this Act; and every person shall be 35 bound by the acts of such agent until such writing shall be cancelled or revoked; and a copy of such writing and of the revocation thereof shall be lodged and registered in the said office of the inspectors, in such manner as the inspectors shall direct, and such writing may be in the form following: 40
- " I A.B. of [§c.] do hereby appoint C.D. of [§c.] to be my
 " agent to act for me in all respects as if I myself were present,

" and acting for the purposes of the Salmon and Inland Fisheries A.D. 1871.
 " (Ireland) Act, 1871. A.B." —

27. Proceedings before the inspectors shall not abate or be suspended by any death or transmission or change of interest; but in case of death or transmission or change of interest it shall be lawful for the inspectors, when they see fit, to require notices to be given to persons becoming interested, or to make and record in their own office any orders for continuing, suspending, or carrying on the proceedings, or otherwise in relation thereto, which to the inspectors appear just.

Proceedings
not to abate.

28. Where an order for the abatement and removal of any fixed engine, or any part thereof, shall here be made by the inspectors, or was made by "the Special Commissioners for Irish Fisheries," and such order, upon appeal to the Court of Queen's Bench, has been or shall be reversed or altered, and the fixed engine to which same relates, or any part thereof, has been or shall be established by said court, the inspectors may, and they are hereby required upon demand, to certify the legality of such fixed engine, or part thereof (as the case may be), stating in the certificate, by reference to maps or otherwise, as the inspectors shall think best (and which maps, as directed by the inspectors, the party entitled to use said engine is hereby required to furnish to them, upon demand), the situation, size, and description of the fixed engine, and the person who is entitled to erect or use the same. Such certificate shall, for all purposes of this Act, until otherwise decided by any of Her Majesty's superior courts of law or equity, be conclusive evidence of the legality of the fixed engine described in such certificate, and that the person therein named is the person entitled to erect or use same, but it shall not render legal any fixed engine that would be otherwise illegal, by reason of its being injurious to navigation, a common nuisance to the public right of fishing, or otherwise in violation of common law or any Act of Parliament.

Proceedings
Where order
reversed.

29. If any person feels aggrieved with any order of the inspectors made, or certificate given, under the third part of this Act, the person aggrieved may appeal to the Court of Queen's Bench in Ireland.

Proceedings
in case of
appeal.

30. The appeal shall be by special case stating the facts and the grounds for the decision.

Special case.

31. The special case shall be settled by the inspectors upon the application of the appellant, to be made in writing within one month after the pronouncing or delivery of the order, or, if such

Appeal in
writing
within
fourteen
days

- A.D. 1871. order is not pronounced at the time of the inquiry, after notice by registered letter addressed to the last known place of abode of the party, or left at the attorney's registered office in Dublin.
- Recogni- 32. The application for a special case shall not be entertained by sion. the inspectors unless the appellant at the time of making the same 5 enter into a recognizance before one of the inspectors or a justice of the peace, with or without sureties, and in such sum as the inspector or justice shall think fit, conditioned to prosecute without delay the appeal, to submit to the judgment of the Court of Queen's Bench, and to pay such costs as may be awarded. 10
- Fees. 33. The special case shall be signed by the inspectors, and shall be delivered to the appellant by the inspectors on payment by him of such fees as are herein-after mentioned.
- Procedure. 34. On the receipt of the special case the appellant shall within seven days serve a copy on the other parties (if any) to the proceed- 15 ings, and transmit by post or otherwise the original case to the proper officer of the Court of Queen's Bench in Ireland, and shall cause the same to be set down in the list for hearing, according to the rules of said court before the end of the term next ensuing the delivery thereof, and not after. 20
- Failure to 35. If the appellant shall fail to set down same for hearing set down case. within the time aforesaid, the said appeal shall for all purposes without any order be deemed abandoned, and the inspectors, upon the certificate of the proper officer of the Court of Queen's Bench that said case has not been so set down, may at any time after the 25 end of such time enforce the order made by them, and any certificate given by them shall be as valid as if no such appeal had been made, and the appellant's recognizance may be enforced.
- Fees. 36. The fees to be charged in respect of the preparation of the special case shall be as follows; that is to say, 30
- | | | |
|--|----|----|
| For drawing case and copy, where the case does not exceed five folios of ninety words each | s. | d. |
| | 10 | 0 |
| Where the case exceeds five folios, then for every additional folio | 1 | 0 |
| For the recognizance to be taken in pursuance of the Act | 5 | 0 |
| For every enlargement or renewal thereof | 2 | 6 |
| For certificate of refusal of case | 2 | 0 |
- 35
- Frivolous case. 37. The inspectors may refuse to state a case when they are of opinion that the application is frivolous, but if they so refuse they 40

shall, on the request of the appellant, give him a certificate stating the ground of their refusal. A.D. 1871.

38. When the inspectors refuse to state a case as aforesaid, the appellant may apply to the Court of Queen's Bench upon an affidavit of the facts for a rule calling upon the inspectors, and also upon the respondent, if any, to show cause why such case should not be stated; and the said court may make the same absolute or discharge it, with or without payment of costs by the appellants, as to the court shall seem meet, and the inspectors upon being served with such rule absolute, shall state a case accordingly, upon the appellant's entering into such recognizance as aforesaid. *Procedure when inspectors refuse a case.*

39. When a party gives in good faith notice of an appeal under this section, but omits through mistake to do some act necessary to perfect the appeal, the Court of Queen's Bench may permit any amendment on such terms as it thinks just. *Amendment.*

40. After the decision of the Court of Queen's Bench has been given on a case stated as aforesaid, the inspectors shall have the same powers to enforce the decision of the court or their own order, when affirmed or amended, as they would have had to have enforced their order if it had not been appealed from. *Power to enforce decision of Queen's Bench.*

41. The court shall hear and determine the questions arising upon such case, and shall thereupon reverse, affirm, or amend the order of the inspectors in respect of which the case has been stated, or remit the matter to the inspectors, with the opinion of the court thereon, or may make such other order in relation to the matter, and as to costs, as to the court may seem fit; and all such orders shall be final and conclusive on all parties, unless the court otherwise directs: Provided always, that the inspectors shall not be liable to any costs in respect or by reason of such appeal against their order. *Procedure in Queen's Bench.*

42. The court, if they think fit, may cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended. No action or proceeding shall be commenced or had against the inspectors or any person acting by their authority for enforcing such conviction or order by reason of any defect in the same respectively. *Case may be sent back for amendment.*

43. In case of such appeal being made against any order for the statement or removal of any fishing weir, fixed engine, or part thereof, the materials of such fishing weir or fixed engine, or part [227.] *Custody of materials in case of appeal.*

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thereof (as the case may be), shall, if removed, be deposited in the custody of, or if not removed shall be left in charge of, such officer or men of coastguard or constabulary, or with such other party or person as the inspectors may direct or appoint for the purpose, there to remain and be kept until the matter of such appeal shall be decided, or the time for prosecuting the same shall have expired; and if such decision shall be in favour of the appellant, such materials shall thereupon be returned to him: Provided that pending an appeal the inspectors may suspend all proceedings as to the removal of a weir or other engine. 10

PART V.—FIXED ENGINES AND WEIRS.

Illegal fixed
engines to
be common
nuisances.

44. No fixed engine, save and except those for which legal certificates have been given pursuant to the "Salmon Fishery (Ireland) Act, 1863," or other the statutes in that case made and provided, or shall be given pursuant to this Act, shall be placed, continued, or used for catching salmon or trout in any inland or tidal waters. Any fixed engine placed, continued, or used in contravention of this section shall be deemed to be a common nuisance, and may be taken possession of or destroyed, and any salmon taken thereby shall be forfeited; and, in addition thereto, the owner or person placing, continuing, or using any fixed engine in contravention of this section shall, for each day of so placing, continuing, or using the same, incur a penalty of not less than *five pounds* and not exceeding *twenty pounds*, together with the penalty of *ten shillings* for every salmon taken or destroyed by means of such fixed engine; and the engine shall be forfeited and be ordered to be abated or removed at the expense of such offenders or offender by the inspectors, or by the magistrate before whom a conviction for any such offence shall be had, and the materials thereof shall be destroyed. 25

Construction
of fixed
engines.

45. No engine for the taking of salmon which shall be formed of wood, iron, or other rigid material, with openings of less width than three inches on each side of the square, and where no openings of the nature of reticulations shall be used of less width between the bars than two inches, shall be used in any tidal waters, save and except by the owner of the whole of the fishery of the river flowing into any estuary, or tideway, from the mouth to the source thereof, including its tributary streams; if any person shall offend against any of the provisions of this section, he shall for such offence forfeit and pay any sum not less than *five pounds*, and not exceeding *ten pounds*, and such engine shall be forfeited. 40

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 Construction
 of fixed
 engines.

46. No fixed engine nor any leader, outrigger, or other work of any kind or description whatsoever connected therewith or adjacent thereto, placed or erected in tidal waters, shall extend to a greater distance than from high water to low water mark of spring tides; nor shall any fixed engine be so constructed as, in the judgment of the inspectors, to be capable of taking young or unsizable fish, or the fry of salmon or sea trout; and the nets made use of in the formation and construction of all fixed engines and of the leaders thereof, shall be extended evenly, in such a manner that the meshes of the said nets shall be stretched to their full opening; and all bag nets shall be so placed and erected as that the netting of the leaders thereof can be raised and kept out of the water; and all fixed engines shall be so placed and erected, maintained, and used as that clear openings for the free passage of fish, as herein-after provided, can be made in the pouches and traps thereof; and if any person shall offend against any of the provisions of this section he shall for every such offence forfeit and pay a sum not exceeding *ten pounds*, and not less than *one pound*, and such fixed engine shall be forfeited.

47. If after any order of the commissioners or inspectors under any Act or Acts hereby repealed, or of any other court heretofore made, or after any order of the inspectors under this Act, or of any court whatsoever, which shall be made, for abating or removing any fixed engine or fishing weir, or any part thereof, unless and until the same shall be reversed on appeal, any person shall erect, re-erect, use, or fish with any fixed engine, or any part thereof, in or adjoining or contiguous to the place where it may have been or shall be decided as aforesaid that any such fixed engine, or any part thereof, should be abated and removed; or if any person shall erect, re-erect, use, or fish with any fixed engine, or any part thereof, contrary to law, and after conviction of any person for erecting, using, or fishing with any fixed engine or fishing weir, or any part thereof, in, adjoining, or contiguous to the same place, or for erecting, using, or fishing with any fixed engine or fishing weir, or any part thereof, of the same description or used for the same purposes, then and in every such case the inspectors, or any two justices of the peace for the county or other jurisdiction wherein the said fixed engine, or any part thereof, shall have been so erected or re-erected, or used or fished with, shall, by warrant under their hand and seal, from time to time, and so often as any such fixed engine or fishing weir, or any part thereof, as aforesaid, shall be so erected, re-erected, used, or fished with, abate and remove the same, at the expense of the party or parties erecting, re-erecting, using, or fishing with the same, or of

Penalties on
 re-erecting
 engines or
 weirs
 abated.

A.D. 1871. the owners or occupiers of the soil whereon such fixed engine or fishing weir, or any part thereof, shall be so erected, re-erected, used, or fished with (if such owners or occupiers shall appear to have permitted or suffered such erection, re-erection, use, or fishing); and the materials of every such fixed engine, or such part thereof as aforesaid, shall be forfeited and destroyed; and the said party and owner shall (independently of all other forfeitures and penalties to which under this Act he or they may be liable) forfeit and pay for every such offence any sum not less than *twenty pounds*, and also any sum not exceeding *ten pounds* nor less than *two pounds*, for every day during which such fixed engine, or such part thereof, shall continue to be so erected, re-erected, used, or fished with as aforesaid.

Malicious
injuries.

48. In all cases of maliciously or wantonly injuring or destroying any fixed engine, fishing weir, or fishing milldam, any person injured by any such offence, and intending to apply for compensation for any loss or damage sustained thereby, on serving the like notices, lodging the like application, and taking like proceedings (as nearly as the nature of the case will admit) as by the Act of the sixth and seventh years of King William the Fourth, chapter one hundred and sixteen, are respectively required in cases of applications for compensation for malicious injuries under the said last-mentioned Act, shall be entitled to make application at presentment sessions as in and by the said Act provided as to cases of malicious injuries; and such application having been considered and dealt with at such presentment sessions in the manner in the said Act directed with regard to applications for compensation for malicious injuries, the grand jury of the county, in or on the shores or boundary of which or adjacent whereto such injury shall have been sustained, may, and they are hereby required, either to disallow such application altogether or present such sum or sums of money as the person or persons so injured ought to receive for such injury or damage, to be levied off such county, or such barony, parish, district, townland, or sub-denomination thereof, as the grand jury shall direct: Provided always, that such application and presentment shall be subject and liable to the like traverse and all other proceedings, and be subject to the like regulations and provisions as by the said Act any application or presentment for compensation for malicious injuries is subject and liable to under the said Act, and as if such regulations and provisions were herein repeated.

Malicious
injuries.

49. In case such malicious injury as aforesaid shall be committed on the verge or within the distance of one mile of the boundary of

- any two or more counties, the person or persons who shall sustain such injury may apply for compensation in the manner herein-before directed in any one of such counties, and all proceedings shall be taken thereupon as herein-before provided in and by this
- 5 Act; and in case any sum or sums of money shall be presented by the grand jury of the county where such application shall be made, or shall be finally awarded by the verdict of any jury, as and for compensation to the person or persons applying as aforesaid, the judge at the assizes of such county shall have power and authority
- 10 to apportion the amount of such compensation amongst such other counties, and to direct the proportion of the same which shall be paid by each of such counties, and shall certify the same accordingly, and such presentment shall thereupon be diminished and presentment made according to the proportion which the said judge shall
- 15 direct to be paid by such county; and the grand jury of each of the said other counties respectively shall and they are hereby required, on the production of the certificate of such judge declaring the proportion to be paid by such county respectively, to present such proportion, to be raised in the manner mentioned in the said
- 20 Act, and paid to the person so applying: Provided always, that no such presentment as aforesaid shall be considered as conferring or confirming any title in or upon the party making such application as aforesaid.

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PART VI.—FISHING WEIRS AND FISHING MILLDAMS.

- 25 50. The following rules shall be observed in relation to the construction of boxes and cribs in fishing weirs and fishing milledams; that is to say, Construction of boxes, &c.
- (a.) The upper surface of the sill shall be level with the bed of the river:
- 30 (b.) The bars or inscales of the heck or upstream side of the box or crib shall not be nearer each other than two inches, shall be capable of being removed, and shall be placed perpendicularly; and the boxes, cribs, or cruives shall not be built over, or in any other manner hidden from public
- 35 inspection.

51. The owner of any fishing weir or fishing milledam that has attached thereto any box or crib in contravention of this Act, or to any orders or regulations made by the inspectors or any person using the same, shall incur a penalty not less than *five pounds* and not
- 40 exceeding *twenty pounds* for every day during which he fails to comply with the provisions of this section.

[237.]

C

Penalties.

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Power to
inspectors to
make orders.

52. The inspectors shall be at liberty from time to time to make such orders or regulations with respect to the formation and structure of such boxes or cribs or cruives for catching salmon as shall be deemed expedient and necessary to suit any improved methods proposed to be adopted; and in all cases in which the principal or 5 a considerable part of the value of any weirs has hitherto consisted in catching trout, the inspectors may from time to time regulate and make orders for the regulation of such weirs, and of the boxes, cribs, and cruives therein, so as to lessen the space between the inscales and rails thereof respectively to such space as shall be fit 10 and proper for the catching of trout.

No right to
use weir, &c.
which is ob-
structive to
navigation.

53. Nothing herein contained shall be construed to give any right whatsoever to any person to erect, continue, or use any weir, dam, or leader which is or shall become or be at any time an obstruction or hindrance to the navigation of any river, or to the free and uninter- 15 rupted discharge of the waters of the same, either for the purpose of draining the lands adjoining thereto, or of improving the water-power thereof for the use of mills or factories; nor shall anything herein contained legalise or give any additional right to any weir for the erection of which a sufficient title in law does or shall not exist, 20 nor confer any title on any person in respect of any fixed engine or fishing weir or fishing milldam which is in contravention of any Act of Parliament or of the common law in force in Ireland.

Illegal weirs.

54. If any person has unlawfully erected or kept up, or shall unlawfully erect or keep up, any fishing weir or fishing milldam upon 25 any river, and a notice shall be served in writing upon the owner or occupier of such weir or milldam, or his known agent, by the owner or occupier of any grounds on the banks of such river on which such weir or milldam has been or shall be erected, requiring him to prostrate or open the same within the space of thirty days from the 30 service of such notice, if such owner or occupier of such weir or milldam shall not within that time prostrate or open the same, he shall forfeit and pay a sum of *fifty pounds*, together with costs of suit, to be recovered by action of debt in any of Her Majesty's courts of record, one moiety thereof to be to the use of the person who shall 35 sue for the same, and the other to the use of the conservators of the district in which such weir or milldam has been or shall be unlawfully erected or kept up; and the said court shall adjudge such weir or dam to be abated at the expense of the defendant in such action: Provided always, that nothing in this section contained shall restrict the powers by this Act given to the inspectors with respect to the abatement of such weir or milldam. 40

55. If the owner or tenant of any eel weir shall take or suffer to be taken therein any salmon or trout, or salmon or trout fry, or spent salmon, every such proprietor or tenant shall forfeit and pay for each and every such offence any sum not exceeding *ten pence*. A.D. 1871.

5 PART VII.—REGULATIONS AS TO FREE GAP, OR QUEEN'S SHARE.

56. In every fishing weir, or at one end thereof, there shall be a free gap or opening in accordance with the regulations in this Act. *Free gap.*

57. The free gap shall be situated in the deepest part of the stream. *To be in deepest part of stream.*

58. The sides of the gap shall be in a line with and parallel to the direction of the stream at the weir unless the inspectors shall otherwise order. *Sides to be parallel to stream.*

59. The bottom of the gap shall, where same is practicable and unless the inspectors shall otherwise order, be level with the natural bed of the stream above and below the gap. *Bottom level.*

60. The width of the gap in its narrowest part shall be not less than one tenth part of the width of the stream, such width to be ascertained in all cases by measuring the breadth of the natural bed thereof at the place where such weir shall be erected, without reference to any walls, artificial banks, or erections. *Width.*

61. In cases of dispute relative to any of the matters aforesaid, the same shall be determined by the inspectors. *Disputes to be determined by inspectors.*

62. Such gap shall not be required to be wider than fifty feet, and shall not in any case be narrower than three feet. No existing gap in any weir shall be reduced in width, or a gap of less width substituted in lieu thereof. No person shall be entitled to any compensation by reason of the enforcing of any free gap in any fishing weir. *Extreme width of gap.*

63. Where a weir is without a legal free gap at the time this Act shall come into operation, the owner of such weir shall incur a penalty not less than *five pence* and not exceeding *fifty pence* for every day during which he does not make such gap. *Penalties.*

64. Where a free gap has been made in a weir, but the same is not maintained in accordance with this Act, the owner of such weir shall incur a penalty not exceeding *five pence* a day for each day he is in default. *Penalties.*

65. No alteration shall be made in the bed of any river or in any fishing weir or free gap which shall reduce the flow of water through

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the free gap; any person making any such alteration shall incur a penalty not less than *five pounds* and not exceeding *fifty pounds*, and a further penalty of *one pound* a day until he restores the bed of the river, weir, or free gap to its original state to the satisfaction of the inspectors.

5

No obstruction in free gap.

66. No person shall place any obstruction, use any contrivance, or do any act whereby fish may be scared, deterred, or in any way prevented from freely entering and passing up and down a free gap at all periods of the year, or shall use any nets or engines or devices for taking fish, except single rod and line, within fifty yards 10 above or below any free gap, or without the consent, under hand and seal, of the inspectors, place or set any bridge, board, cloth, or any other thing whatsoever in, over, or across the same (save and except a temporary bridge or board during the time only when the persons engaged in the fishing of the said weir shall be passing over 15 the same); and any person doing any act in contravention of this regulation shall incur a penalty not less than *five pounds* and not exceeding *twenty pounds* for the first offence, and not less than *ten pounds* and not exceeding *fifty pounds* for each subsequent offence; and all such obstructions shall forthwith be removed at the expense 20 of such person upon the order of the justices imposing such penalty or of the inspectors; and in any proceeding against any person for the recovery of any penalties incurred by violation of the provisions aforesaid, proof that such person is the occupier or owner of such fishing weir shall be taken as *prima facie* evidence that such 25 obstructions were placed by him.

Weekly close time in place of gap.

67. In any case where the breadth of the river where any chartered or patent fishing weir now exists shall not exceed forty feet, and it might be inexpedient to require a free gap to be made therein, the inspectors may, if they think fit, instead thereof direct 30 by their order the extension of the weekly close time for a period of forty-eight hours.

No rebuilding of illegal spur or tail walls.

68. In all cases where the inspectors shall, by virtue of the provisions in this Act contained, open or cause to be opened, in any weir, a free gap of the dimensions prescribed by this Act, or re- 35 move any obstructions, spur, or tail walls, hereby declared to be illegal, it shall not be necessary for the inspectors, or any person executing their orders, to rebuild any part of such weir, or of the works appertaining thereto, nor to fix up or erect altered or improved boxes, rails, or cruives, nor shall they be answerable or 40 accountable for any damage or injury arising to such weir, or to such box, rail, or cruive, in consequence of such removal as aforesaid.

PART VIII.—SPUR AND TAIL WALLS.

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69. It shall not be lawful to construct or attach to, or permit to remain if already constructed or attached to, the upper or lower side of any fishing weir or fishing milldam in any river any spur or tail wall, leader or outrigger, of any kind or description whatsoever, of a greater length than twenty feet from the upper or lower side respectively of the walls or piers of such weir or milldam, except the wall or leader connecting the cribs of such weir or milldam with the bank of the river.
70. No such wall, leader, or outrigger shall be so built or constructed as to narrow up or prevent the ingress and discharge of the water through or from the free gap or Queen's share in such weir or milldam, nor shall any island or natural formation in any river be so made use of as to secure to the owner of any weir or dam the same advantage which he would have obtained by the erection of a spur or tail wall of greater length than twenty feet; but no such wall or leader shall be constructed or suffered to remain in narrow rivers or places of a greater length (though less than twenty feet) than the inspectors, if they think it expedient, shall order or direct; and if any person having or using a fishing weir or fishing milldam shall offend against any of the provisions of this section, he shall for each offence forfeit and pay a sum not exceeding *twenty pounds*, and shall also for every day during which such spur or tail wall, leader or outrigger, island or natural formation, so constructed or made use of in contravention of the provisions of this section, shall be allowed to remain, forfeit a sum of *five pounds*.
71. If any fishing milldam shall be by virtue of Act of Parliament, charter, or prescription legally used for the catching of salmon or other fish, nothing herein contained respecting the making or maintaining a free gap or Queen's share, or the length of spur or tail walls, or using islands or natural formations as such, shall be construed to extend to such milldam so as injuriously to affect the supply of water to any mill or factory, or for navigation.
72. If the tenant or owner of any fishing weir or fishing milldam, crib, or box for taking fish shall not within such time as the inspectors shall appoint alter such milldam, weir, or works, and complete or construct the same, or remove the illegal and objectionable parts thereof, or any spur or tail wall, or any part thereof, so as to make the same conformable to the provisions of this Act, or to the orders of the inspectors, the inspectors may open, or order and direct, by a warrant under their hands and seals, to be made or opened, a gap of the prescribed dimensions, and the tail and spur

Spur and tail walls.

No interference with gap.

Saving of rights under Acts or charters.

Power to inspectors to open gap.

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walls of such weirs or dams, or any part thereof, or islands and natural formations used as such, to be removed or altered, and the railwork or inscales of cribs not made in compliance with this Act to be removed, and all other necessary alterations to be made in such weirs, milldams, cribs, or boxes, at the expense of the offender; and the inspectors, or any person authorised by them, may enter upon such milldam, weir, or works as aforesaid, and do all such acts as shall be necessary to make same conformable to this Act or the orders of the inspectors.

PART IX.—REMOVAL OF OBSTRUCTIONS TO THE MIGRATION OF SALMON AND TROUT.

Dams, &c.
after
August 10,
1842.

73. Every dam, weir, or other erection which was after the tenth day of August one thousand eight hundred and forty-two, or shall be placed in or across any river frequented by salmon or sea trout for sustaining the water of such river for any purpose, or upon or in addition to such dam, weir, or erection shall have and be so maintained as to permit and allow of, in one or more parts of the same, the free run or migration of salmon and trout at all times of the year. Such provision for the free passage of the fish at all times through such dam, weir, or erection shall be made and maintained at the expense of the person forming or using such dam or weir, and in such manner as the said inspectors shall approve; any person offending against this section shall for each offence forfeit and pay a sum not less than *two pounds* and not exceeding *five pounds*.

Dams, &c.
before
August 10,
1842.

74. With respect to any dam or weir or erection erected previous to the tenth day of August one thousand eight hundred and forty-two in or across any such river for sustaining the water of such river for any of the purposes aforesaid, the inspectors, if they shall deem it for the benefit of the fisheries thereof, on the application of one or more of the persons interested in the fishery of the river wherein the same shall be placed, and at the proper costs and charges of the persons interested in such fishery as aforesaid, may cause a survey of the said dam, weir, or erection to be made, and direct such alterations to be made therein, or such additional work to be added thereto, as shall in the opinion of the inspectors be necessary and desirable for the purpose of affording a free and uninterrupted passage to the fish frequenting such river, and shall not impair the navigation or lessen or impair the effective working power of the mill or factory to which such dam or weir belongs.

All weirs,
&c. to be
open to
inspection.

75. All fishing and other weirs and dams, and all free gaps, fish passes, and ladders, shall be at all times open to the inspection

of the inspectors and the conservators of the district, and of water bailiffs, and any person authorised by the inspectors or conservators.

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76. No person shall fish in any manner, except with rod and line, within the space of fifty yards above or below any fish pass or ladder, and every person offending against this section shall for every such offence forfeit and pay a sum not exceeding *five pounds* or less than *two pounds*, and the engine or instrument used shall be forfeited.

No fishing within fifty yards of pass, except with rod and line.

77. If in any river ledges of rocks, shoals or other natural obstructions, or weirs or milldams, or other artificial obstructions, prevent or interfere with the free passage and migration of salmon and trout, the inspectors may make an order authorising and directing such alterations as shall secure a free and uninterrupted passage at all seasons of the year for salmon and trout.

Orders of inspectors as to obstructions.

78. The inspectors after making any such order as last aforesaid may enter into any contract for the purpose of executing the said works.

Contracts.

79. When any order as last aforesaid shall have been made, or when the inspectors or conservators shall deem it expedient that any work as last aforesaid shall be executed, it shall be lawful for them to furnish to the Commissioners for Public Works in Ireland the plan or particulars and specification for such work, and to request from said Commissioners of Public Works (who are hereby required and directed, with as little delay as possible, to comply with such request) to state in writing to the said inspectors or conservators the sum which they estimate that such work will cost, and upon payment by the said inspectors or conservators to the Commissioners of Public Works of such estimated sum, and at the request of the said inspectors or conservators (which shall be considered a direction within the terms of this Act), such work shall, with all convenient speed, be contracted for and executed by and under the direction and superintendence of said Board of Works, who, for the purpose of executing same, shall have all powers, rights, and privileges given or hereafter to be given to or conferred upon them, their assistants, officers, or persons acting under them by virtue of any Act of Parliament whatever.

Board of Works to execute plans, &c., as to removal of obstructions.

80. Any person obstructing any of the Commissioners of Public Works, or any one employed by them, or preventing them from going to or from or executing such works, or injuring, destroying, or interfering with any such works, or any matter or thing connected or used therewith, shall be liable to the same punishment and penalties as they would be under any Act of Parliament,

Penalties on interfering with Board of Works.

A.D. 1871. — or otherwise, for resisting the said Board of Public Works, their officers or assistants, in carrying out or constructing any work under any Act or Acts of Parliament authorising them in that behalf.

Powers of Board of Works as by compensation, &c.

81. For the purpose of executing any such work, and ascertaining all compensation for damage to mills, factories, or to the drainage of lands, and other matters in relation thereto, and for the purposes of this Act, the Commissioners of Public Works in Ireland shall have and exercise all and every the powers and authorities vested in the said Commissioners of Public Works in Ireland under and by virtue of the several statutes in that behalf made and provided.

No injury to be done to mill, factory, or drainage.

82. Such works or alterations in the bed of such river shall, as far as is practicable, be made so as not to injure the effective power of any mill or factory, or to interrupt the drainage of lands adjoining such river.

Conservators to apply funds.

83. The board of conservators of any district may from time to time apply any portion of the funds in the hands of the treasurer to the credit of such district which they may think fit, for the purpose of making passes in or over weirs or dams, or for removing or making passes in or through natural or artificial obstructions in any river in such district.

Sill of fish pass in weir before August 10, 1842.

84. If any such fish pass be made over any millweir or milldam constructed before the tenth day of August one thousand eight hundred and forty-two, the sill or floor of the fish pass at the top of the weir shall in all cases be two inches above the weir, unless the owner of the millweir or milldam give his consent to a different construction, provided that nothing herein contained shall apply to fish passes already made.

Funds to be provided by Parliament.

85. *And whereas the funds produced by rates on fisheries and sale of licenses may be insufficient to pay for carrying out the provisions of Part VIII. of this Act, and the free migration of fish has been impeded in many rivers, and in consequence of which the fisheries of such rivers have been greatly deteriorated: Be it enacted, that after the passing of this Act there shall be paid to the inspectors by and out of funds to be provided by Parliament for the purpose, such sum or sums not exceeding in the whole the sum of two hundred pounds in each year, to be applied by them in or towards the construction of any works which they may consider necessary for the purpose of carrying out any of the provisions of Part VIII. of this Act.*

Provided always, that nothing herein contained shall be taken to authorise the said inspectors to apply any part of such sum in or

towards defraying any portion of the expenses of executing or carrying out any works which are by any provisions of this Act required to be done by any party at his own expense, so as to exonerate any such party from the payment of any part of the expenses of said works, or from the obligation of doing such works, but that the repayment of any sum which shall be so applied shall be recovered from the person liable to execute such works.

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86. No person shall take, kill, or destroy any salmon or trout in any such fish pass, or use or set in any passage made over or through such natural obstructions, milldams, weirs, or other similar works, any engine or contrivance whatsoever for the taking of fish, or place any obstacle or contrivance of any nature or kind soever in or near thereto, which shall or may deter or prevent fish from freely entering or passing up and down through the same; but such passage shall be kept and preserved free from every obstruction, and all such obstructions shall be removed in like manner as is heretofore provided with regard to obstructions to the free gap or Queen's share in fishing weirs; and every person offending contrary hereto shall for each offence forfeit and pay any sum not exceeding twenty pounds and not less than five pounds.

No fishing in fish passes.

87. In case the person who shall have actually committed any such offence (so far as relates to the weirs or dams of mills or factories) shall not be known or found, and if such offence shall have been committed under such circumstances as shall appear to the justice before whom any complaint thereupon shall be made to afford reasonable grounds for believing that such offence was committed by some person in the employment or under the control of the owner or occupier of such mill or factory, or that it was committed with the knowledge or connivance of such owner or occupier or the person in charge of such mill or factory, or through the default of reasonable precaution on the part of such owner or occupier, or person in charge to prevent such offence, in every such case such owner or occupier shall be liable to and shall incur the penalty aforesaid, as if such offence had been actually committed by him.

Owner of weirs or dams to be liable in certain cases.

35 PART X.—EXPENSES OF WORKS; COSTS, AND PENALTIES.

88. When, under the provisions of this Act, any justice of the peace or the inspectors are authorised to do or execute, or cause or authorise to be done or executed, any work, matter, or thing at the expense of any offender, they respectively shall ascertain the amount of such expense, and direct payment thereof to be made by such offender to such person as they may think fit; and such person may sue for and recover the same by civil bill; and a certificate in

Expenses of works.

A.D. 1871.

writing, purporting to be under the hand of such justice, or under the seal of said inspectors, and to be signed by the inspectors, or by their order, shall be conclusive evidence of the amount of such expenses, and of the liability of the party therein named to pay the same, and of the right thereto of the person thereby authorised to sue for and recover the same.

Costs.

89. The inspectors, or any court before which any complaint, inquiry, suit, action, information, or indictment shall have been heard or tried and determined under this Act, may order that the costs and expenses of and incident to such complaint, inquiry, suit, action, information, or indictment, and the proceedings therein, and the hearing or trial and determination thereof, shall follow the event of the same respectively, and be borne and paid by the party against whom the same shall have been determined; and such costs, charges, and expenses shall be estimated either as between party and party, or as between attorney and client, at the discretion of and shall be ascertained by such inspectors or court respectively; which costs, charges, and expenses being so ordered and ascertained, shall be recovered against the party liable thereto in the manner as by the last preceding section is provided with respect to the recovery from offenders of the expenses of executing works under this Act.

Penalties :
Destruction
of illegal
engines, &c.

90. All penalties mentioned in this Act may be recovered by action in any court of law in Ireland; one half of the penalties, except when otherwise specially enacted, shall be paid to the plaintiff or prosecutor, and the other half shall be paid to the board of conservators of the district where the offence was committed. No penalty less than ten shillings shall be imposed under this Act. All nets, rods, engines, machines, devices, and contrivances, when forfeited under this Act, shall be forthwith destroyed, after conviction of the person using such nets, rods, engines, machines, devices, or contrivances, contrary to the provisions of this Act.

Appeal to
quarter
sessions.

91. All offences against the provisions of this Act may be tried before, and the penalties enacted may be imposed by, the justices at petty sessions; an appeal shall lie to the chairman of the county at quarter sessions from all orders made by the justices at petty sessions under this Act.

PART XI.—MILLS AND THEIR APPURTENANCES.

Penalties
against
taking fish
in water-
courses.

92. If any person shall, at any season of the year, in any mill-pool or milldam, or in any works appurtenant to any mill or factory, or in any watercourse leading the water to or from such mill or factory, place, set, or draw any engine, or use any means or

device for the purpose of taking, destroying, or obstructing, or which may take, destroy, or obstruct any salmon or trout, every person so offending shall for every such offence forfeit and pay a sum not exceeding *ten pounds*, and shall also forfeit such nets or other engines; and in case the person who shall have actually committed any such offence shall not be known or found, and if such offence shall have been committed by means of shutting down or closing any gate or sluice which is under the exclusive power of the occupier of any mill or factory, or if such offence shall have been committed under such circumstances as shall appear to the justices before whom any complaint thereupon shall be made to afford reasonable grounds for believing that such offence was committed by some person in the employment or under the control of the owner or occupier of such mill or factory, or that it was committed with the knowledge or connivance of such owner or occupier, or the person in charge of such mill or factory, or through the default of reasonable precaution on the part of such owner or occupier or person in charge, to prevent such offence, then and in every such case such owner or occupier of such mill or factory shall be liable to and shall incur the penalty and forfeiture aforesaid as if such offence had been actually committed by him.

93. The owners and occupiers of all mills and factories are hereby required, at all seasons of the year during the times at which such mills or factories shall not be in use for milling purposes, or when the waterwheel or watercourses thereof shall not be undergoing such repairs as shall require the water above such mill to be run off, to stop and close up in dry seasons all waste gates, waste sluices, and overfalls, so as to direct and force the surplus water of such river or stream through any fish pass or passage on or through the weirs or dams belonging to such mills or factories. If there be no fish pass or passage for fish through any such weir or dam, such owners and occupiers shall keep open all such waste sluices, waste gates, and overfalls; and if the owner or occupier of any such mill or factory shall offend against any of the provisions of this section, he shall forfeit and pay a sum not more than *ten pounds* for every such offence: Provided always, that the opening or shutting of such sluices, waste gates, or overfalls shall not in any way injuriously interfere with the machinery or water power of any mill or factory.

94. The sluices which admit the water to the wheels of all mills or factories shall at all seasons of the year be kept shut by the owners or occupiers thereof for twenty-four consecutive hours in each week

Regulations as to watering of mills, &c. when not working.

Sluices to be shut from Saturday evening to

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Monday
morning.

between the hours of six o'clock on Saturday afternoon and six o'clock on Monday morning, so that the water may be allowed to flow freely through any existing gap in such weir, dam, or dyke, or any passage for fish formed as aforesaid, or where no such gap exists or passage shall be formed, through the waste gate on the up-stream side of the wheel sluices of such mill or factory, if such waste gate shall be erected in a channel suitable for the passage of fish: Provided always, that by the opening of such waste gate the mill shall not be thereby deprived of the necessary supply of water for the fall and efficient working of the same. If any owner or occupier of any mill or factory shall offend against this section, he shall for each offence forfeit and pay a sum not exceeding *five pounds* for each offence. 5 10

No fishing
within one
hundred
yards of weir
or milldam
save with
single rod
and line.

95. No person shall use any net, instrument, or device for taking any salmon, trout, or other fish (save and except single rod and line) within one hundred yards either above or below a mill weir or milldam; and if any person shall offend against this section he shall forfeit and pay a sum not less than *one pound* nor more than *ten pounds* for every such offence, and shall also forfeit such instrument or device. 20

Penalties
against dam-
ming or
seaming.

96. If any person shall be found at any time damming or seam- ing or emptying any river, watercourse, or mill race for the purpose of taking or destroying any salmon or trout, every person so offending shall forfeit and pay any sum not exceeding *ten pounds*.

PART XII.—GRATINGS TO PREVENT FISH ENTERING WATERCOURSES. 25

Gratings in
water-
courses.

97. In all watercourses, mill races, cuts, channels, or sluices constructed for the purpose of conveying water for any purpose from any river frequented by salmon, there may be placed and fixed at or near their points of divergence from and return to such river, a grating consisting of upright bars or rods, the space between the bars whereof shall not be less than two inches in any place, extending across the whole width of such watercourse, mill race, cut, channel, or sluice, and from the bottom of the bed or sill thereof respectively to the level of the highest winter or flood waters. The said upright bars shall be sufficiently inclined down the stream so as to direct weeds or other matters carried down by the current towards the surface of the water. In fixing the place for the erection of the gratings the inspectors shall have regard to the convenience of the occupiers of the mills to which such water- courses lead, so as to facilitate the cleaning and preservation of the gratings. 30 40

98. No grating shall be erected which shall diminish the supply of water to any mill so as to interfere with the effective working power of the mill.

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No gratings
to injure
mills.

99. Such gratings at or near the point of divergence from the river shall be kept up during the months of December, January, February, and March only in each year. During the remainder of the year any portions thereof injuriously affecting the supply of water may be removed.

Period of
keeping up
gratings.

100. Such gratings at or near the point of return to the river shall be kept up during the entire year. In the construction of gratings to prevent the fish entering tail races of mills, the gratings shall be erected at such a distance down the river so as not to throw back water on the wheel, or otherwise injure the effective working of the mill or machinery. Spur walls may be erected in the bed of the river above the point of return for the same purpose.

Gratings at
point of
return.

101. The owner or occupier of the premises to which such watercourse, mill race, cut, channel, or sluice leads, or other person using or having the care and maintenance of any such watercourse, mill race, cut, channel, or sluice, shall take all reasonable means to preserve the said gratings from injury, and to prevent the same from being removed; and in case any such owner, occupier, or other person, or his or their servants, shall injure such gratings, or remove any part of them, or open them improperly, or knowingly permit them to be injured or removed or improperly opened, he shall for every such injury, removal, or improper opening, forfeit and pay any sum not exceeding *ten pounds*.

Owners to
preserve
gratings.

102. The inspectors may order such gratings to be constructed, and the expense of such construction to be defrayed by the board of conservators of the district.

Orders for
gratings.

103. Upon any such order being made by the inspectors, the powers and provisions contained in sections seventy-nine, eighty, and eighty-one in this Act shall apply as regards the construction or repairs of such gratings, and the compensation to be ascertained by the Commissioners of Public Works, and the Commissioners of Public Works in Ireland shall have all the powers mentioned therein.

Powers of
Board of
Works.

104. The inspectors or conservators may, if they think fit, construct such gratings, and enter into any contract for that purpose, and any persons interested in the fishery may supply funds to the conservators for such purpose. For the purpose of erecting or repairing or inspecting such gratings it shall be lawful for the

Inspectors or
conservators
may con-
struct
gratings.

A.D. 1871. inspectors or conservators, and their assistants and servants by their authority, to enter on any lands, giving reasonable notice and doing no unnecessary damage.

Additional channels. 105. In all cases of construction of gratings the inspectors or conservators, where necessary, shall widen the race or channel, or make additional channels sufficient to compensate for any diminution in the flow of water caused by such gratings, or shall take other means so as to prevent the effective power of the waterwheels to which the watercourses belong from being diminished or injured.

Compensation. 106. Where such gratings have been hitherto constructed, they shall, when necessary, be reconstructed pursuant to the provisions of this Act. Full compensation shall be made under the provisions of this Act, and not otherwise, by the conservators for any injury to any mill, and for the taking of land and erecting of gratings under this Act. Any claim for such compensation may be made to the inspectors, and the inspectors may award compensation, or order any gratings injurious to the working power of any mill to be levelled and abated. An appeal may be made from any order of the inspectors to one of the judges of assize for the county in which the gratings are situate. Notice of such appeal shall be given six days before the assizes.

Where mill owners erect gratings at their own expense only may be taken in sluices. 107. Mill owners may, with the consent of the inspectors, erect such gratings at their own expense. Wherever mill owners shall erect such gratings at their own expense and maintain them during the entire year at the point of divergence from and return to the river, they may, with the consent of the inspectors, erect in the sluices or mill races nets and engines for the purpose of taking eels, during such period of the year as the inspectors shall sanction.

Provision in case of turbines. 108. Where a turbine or similar hydraulic machine, which may be injurious to salmon or the fry of salmon in their descent to the sea, is supplied from a river frequented by salmon, the owner of or person using such machine shall, during the time in which such descent to the sea takes place, provide gratings or such other efficient means as the inspectors shall approve of to prevent such salmon or fry of salmon from passing into such machine, and in case such grating or means be not provided such person shall forfeit a sum not exceeding *fifty pounds*, and also a sum not exceeding *five pounds* for each day during which such injury to the fry continues.

PART XIII.—NETTING IN RIVERS AND ESTUARIES.

Defining of mouths of rivers. 109. The inspectors for the purposes of this Act may define and mark out by a line and with reference to maps or otherwise, and

from time to time alter, as they think fit, the mouths of rivers, at their entrance either into the sea or into other rivers or into estuaries, and may define and mark out the boundaries of the estuaries thereof, and the boundaries between the tidal and fresh water portions of every river.

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110. Where several streams flow into a common mouth or estuary the inspectors may declare that the outlets of such streams form separate mouths or estuaries. The inspectors may also define and mark out the point or points in mouths of rivers from which distances are to be measured under this Act, and may, in manner aforesaid, illustrate and show the points of termination of the respective distances, and the space or spaces within which it is allowed or prohibited to shoot, draw, stretch, or in any manner use nets.

Defining of mouths of rivers.

111. It shall be lawful for the inspectors to make byelaws regulating the mode of fishing for salmon at half tram, and to allow head moorings to steady the boats and keep the nets from drifting, and to define the boundaries and limits within which this mode of fishing may be pursued.

Byelaws as to fishing at half tram.

112. No person, save and except the owner of a several fishery within the limits thereof, or in the exercise of a public or other right, shall at any time shoot, draw, or use any net for taking salmon or trout at the mouth of any river where the breadth of such mouth between the banks thereof shall not exceed a quarter of a mile statute measure. No person, save such owner as aforesaid, within such limits as aforesaid, or in the exercise of a public or other right, shall shoot, draw, or use any net for taking salmon within half a mile seaward, or half a mile inwards, or along the coast from any part of the line mentioned in section ninety-eight of this Act at the mouth of any river, as defined, or to be defined, by the inspectors.

Netting in mouths of rivers.

113. No person (save and except the owner of a several fishery in the whole of a river and its tributaries within the limits of such several fishery) shall shoot, draw, stretch, or use nets at the mouth of or in any other part of any river at such place in such wise as, in the judgment of the inspectors, shall be, and as they shall have by a byelaw declared, or shall by a byelaw declare to be, injurious or detrimental to the free passage of fish, or calculated to disturb fish on spawning beds, and shall have prohibited.

Power to inspectors to prohibit netting.

114. It shall not be lawful for any person to shoot, draw, or use any net for taking salmon or trout in any lake or river at a distance

Prohibition of netting in fresh

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A.D. 1871. exceeding fifteen miles above the limit of the highest spring tide at the estuary thereof from and after the fourteenth day of June to the thirty-first day of December in each year, except within the navigable portion of such lake or river, or except where the inspectors shall otherwise order by any byelaw. 5

water in certain cases after the fourteenth day of June. 115. It shall not be lawful for any person to shoot, draw, or set any net for taking salmon or trout from the fourteenth day of August to the thirty-first day of December in each year.

Penalties. 116. If any person shall offend against any of the provisions of sections one hundred and twelve, one hundred and thirteen, and one hundred and fourteen, he shall for every such offence forfeit a sum not exceeding *ten pounds* nor less than *one pound*, and also the further penalty of *five shillings* for every fish taken by means of such net so used, and such net shall also be forfeited. 10

Inquiry into rights. 117. And whereas public and other rights to fisheries are alleged to exist in and at the mouths of several rivers in Ireland, and, by reason thereof, parties claim and exercise the right to use nets for taking salmon or trout, and it is expedient that all such rights should be inquired into and ascertained for the purposes of this Act: Be it enacted, that if any person shall do any act which shall be prima facie an offence against any of the provisions of sections one hundred and twelve, one hundred and thirteen, and one hundred and fourteen, the inspectors (subject to such appeal to the Court of Queen's Bench as aforesaid) shall inquire into the right of such person, or of any person for whom or by whose direction or permission he may be acting, to do such act, and for that purpose all the provisions of this Act shall apply. 15 20 25

Orders on inquiry. 118. Upon said inquiry, if the inspectors are not satisfied of the right of such party to do the act, they may make an order declaring such act illegal and disallowing the claim of such party to do it; but if they shall be satisfied of the right of such or any other party to do such act, or if they shall be satisfied of the right to a several fishery they shall give to the party entitled thereto a certificate under their hands and the seals of the Commission, stating the rights of parties, or, as the case may be, the nature, the situation, and the limits of the several fishery established, and the person who is the owner thereof. 30 35

Appeal. 119. Such certificate shall be the subject of appeal to the Court of Queen's Bench under this Act; and, upon appeal, may be confirmed or amended by the court, or remitted back to the inspectors with such intimation in respect of the amendment thereof as the 40

court shall think fit; and the inspectors shall thereupon give to the party entitled another certificate, subject to appeal as aforesaid. A.D. 1871.

120. A certificate under this section unappealed from or confirmed, or such order as mentioned in the preceding section for all purposes of this Act or proceedings thereunder, unless and until it shall be otherwise decided by one of the superior courts of law and equity, shall be conclusive evidence of the facts stated therein. Certificate evidence.

121. If after any such order as last aforesaid, and while same is in force as aforesaid, the person who shall have made such claim, or any person acting for or under him, shall offend against any of the provisions of sections one hundred and twelve, one hundred and thirteen, or one hundred and fourteen, he shall for each such offence be liable to pay a sum not exceeding *ten pounds*. Penalties.

15 PART XIV.—CONSERVATORS, DISTRICTS AND ELECTORAL DIVISIONS, BYELAWS.

122. And whereas by the Acts of the sixth year of Her Majesty, chapter one hundred and six, and the twelfth year of Her Majesty, chapter ninety-two, the commissioners for the execution of those Acts were empowered to divide Ireland and the sea coast and islands thereof into districts for the purposes of those Acts, and to cause the said districts to be designated by names, marks, or letters, and to be defined and described by suitable notices and maps to be published for that purpose, and to subdivide each such district into two or more electoral divisions, to be called the upper or fresh water and lower or tidal electoral divisions of such districts, and upon the maps aforesaid to cause to be delineated the limits and boundaries of such electoral divisions, and to alter any such district or electoral division, and fix other boundaries for the same as therein; and whereas the said commissioners have, in pursuance of said statutes, fixed various districts, and subdivided same into electoral divisions properly designated and described: Be it enacted, that such districts, divisions, and subdivisions shall respectively continue to be the districts, divisions, and subdivisions for the purposes of this Act, unless and until they shall be altered as herein-after provided.

123. The inspectors may from time to time, if they think fit, alter any district or electoral division thereof, and may fix other boundaries for the same, or unite any two or more electoral divisions of one district, or make any new or additional or substituted electoral division in any district, and determine the number of conservators to be elected for each such electoral division, and may make all such rules and orders for the transfer or election of conservators Alteration of districts.

A.D. 1871. which may be required, or they shall deem expedient in consequence of such alteration, and may also make rules and orders for the proper division of the funds in hand, and received during the year: Provided always, that every such alteration or subdivision, union or addition, or substitution shall be duly published and described, with the boundaries and designation of the same, in the Dublin Gazette and such provincial newspapers and for such time as the inspectors shall think fit, and same shall be entered among the byelaws to be made by the inspectors, and shall commence and take effect on the first day of January in each year. 5 10

Powers of conservators.

124. The conservators assembled at any general meeting for any district under the provisions of this Act, if they shall think fit so to do, may make an order under their hands and seals authorising the conservators of any electoral division to hold meetings within the division for which they may have been elected, and to appoint a bank to be treasurer, and to appoint clerks and water bailiffs to act for such division with reasonable salaries. 15

Notice of meetings.

125. The fixing and duly publishing notice of the times and places for the meetings of conservators in such electoral division, and the appointment of a bank to act as treasurer, and the appointments of clerks and water bailiffs as herein provided, pursuant to such order, shall be subject to the same provisions and regulations as are provided and required by this Act to be observed and done by boards assembled at general district meetings with respect to the premises. 20 25

Appropriation of moneys.

126. After any such order shall have been made the holding of such meetings and such appointments shall be good and valid in law, and it shall be lawful for the conservators assembled at any general district meeting as aforesaid to apply and appropriate such portion of the money received for license duties and rates and for forfeitures and penalties for any district as they shall consider expedient to and for the purposes of any such electoral division, and to cause the same to be lodged to the credit of the conservators for such electoral division in the bank which such conservators shall, as herein provided, appoint to act as treasurer, and such treasurer shall pay such sums of money as shall be required for the purposes of such electoral division from time to time upon a draft or order signed by the chairman at any meeting of such conservators for such electoral division, and by two other such conservators. 30 35

Accounts.

127. Such conservators acting for any electoral division as herein provided shall furnish such accounts of the disbursements of such money as may be lodged to their credit in the manner aforesaid as 40

the conservators for any district making such order as aforesaid or the inspectors shall from time to time require. A.D. 1871.

128. It shall and may be lawful for any board of conservators to make byelaws for the better protection, preservation, and improvement of the salmon and trout fisheries within their district, for all or any of the following purposes: Board may make byelaws for certain purposes.

(a.) To vary the rate of license duty in different parts of the district in respect of the same instrument, so that such duty shall not exceed the sum mentioned in this Act:

(b.) To determine the form of license and manner in which licenses shall be issued:

(c.) To determine what marks, labels, or numbers shall be attached to licensed nets:

(d.) To place gratings across the head and tail race of mills and across any artificial channel, so as not to interfere prejudicially with the working of any mill or inland navigation, and subject to the rights of compensation to be ascertained by the Commissioners of Public Works in Ireland under this Act, and to order the expense thereof to be paid out of the funds of the district:

(e.) To make regulations as to the modes of fishing for sea fish and other fish within the district which interfere unnecessarily with the preservation and protection of salmon:

(f.) To make regulations generally for the more effectual maintenance, regulation, protection, and improvement of the salmon and trout fisheries within the district, and to alter the same from time to time:

And the said board may by any such byelaw impose a reasonable penalty, not exceeding the sum of *five pounds* for each offence, and such penalties shall be recovered and applied as in other cases; provided always, that such byelaws shall not be repugnant to the laws of Ireland, and such byelaws shall be reduced to writing, and have affixed thereto the common seal of the board, and shall be confirmed and published as herein provided; and provided also, that the justices before whom any penalty imposed thereby shall be sought to be recovered may order the whole or part only of such penalty to be paid.

129. No byelaw made by such board of conservators shall come into operation until the same be confirmed by the inspectors, who may inquire into the same, and alter, allow, or disallow the same: Provided always, that no such byelaws shall be confirmed unless notice of the intention to apply for a confirmation of the same shall Byelaws not to come into operation until confirmed by inspectors.

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have been given in one or more newspapers circulating in the fishery district to which such byelaws relate, six weeks at least before the hearing of such application, and any person desiring to object to any such byelaw, on giving to the said board notice of the nature of his objections ten days before the hearing of the application for the allowance thereof, may, by himself or his counsel, attorney or agent, be heard thereon.

Byelaws to be open to inspection before application to confirm them.

130. For one month at least before any such application for confirmation of any byelaws a copy of the proposed byelaws shall be kept at the office of the board, or some place to be appointed by the chairman for that purpose, and all persons may at all reasonable times inspect such copy without fee or reward, and the said board shall furnish every person who shall apply for the same with a copy thereof, or of any part thereof, on payment of *one penny*.

Byelaws when confirmed to be printed and published.

131. The said byelaws when confirmed shall be printed, and the secretary or clerk to the said board shall deliver a printed copy thereof to every person who shall pay license duty without charge, and a copy thereof shall be placed and renewed from time to time, on boards, and put up in some conspicuous place or places within the district, and shall be open to inspection without fee or reward; and in case the said secretary or clerk shall not permit the same to be inspected at all reasonable times, he shall for every such offence be liable to a penalty not exceeding *five pounds*.

Byelaws when confirmed and published to be binding on all persons.

132. All byelaws confirmed according to the provisions of this Act, when so published and put up, shall be binding and be observed by all parties, and shall be sufficient to justify all persons acting under the same. The confirmation of the said byelaws by the inspectors shall in any court of justice be conclusive proof that the legal formalities were observed in the making of the byelaws.

Byelaws proved by copy having seal of board and publication in public place.

133. The production of a written or printed copy of the byelaws authenticated by the common seal of the inspectors shall be evidence of the existence and due making of such byelaws in all cases of prosecution under the same, without proof of the common seal, and with respect to the proof of the publication of any such byelaws it shall be sufficient to prove that a board containing a copy thereof was put up, or that a copy was put up in some public place within the district, and continued in manner by this Act directed, and in case of its afterwards being displaced or damaged that such board was replaced or restored as soon as conveniently might be, unless proof be adduced by the party complained against that such board or public place containing such copy was not duly put up or continued as directed by this Act.

134. The boards of conservators in office at the time of the passing of this Act shall continue in office until the first day of October one thousand eight hundred and seventy-two, when conservators shall be elected for each such district under this Act; and the inspectors shall, before that and each subsequent election, determine and declare the number, not less than six nor more than twelve, which shall be elected and returned for each electoral division. The persons so to be returned from time to time for each electoral division shall be the elected conservators for the district, and they shall hold their office until the expiration of *three years* from the day fixed for the election.

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Election of conservators.

135. No treasurer, clerk, water bailiff, or any officer or servant of the board shall in any way interfere or take part in or about or vote at any such election, and if it shall be proved to the satisfaction of the inspectors that any such person has in any respect violated the provisions of this section, he shall be subject to dismissal by the inspectors from his office or place, and to be disqualified for holding any office or place whatever under or in the service of the board elected at such election or any future board of that district.

No interference of servants of board in elections.

136. The elected conservators shall be elected by the persons who shall have paid license duty, and been licensed within each electoral division of a district in the current year, according to the provisions of this Act.

Electors.

137. Every person (save as in this Act provided) who shall have paid license duty according to this Act within and for any electoral division within any year, for a fixed engine situated in or for a movable engine used in such division, and who shall have taken out and actually paid for such license two months at least before the day fixed for such election, shall be entitled to vote at the election of the conservators to be chosen for such division held for such current year, either in person or by proxy (according to such regulations and forms for the election as shall be fixed and directed by the inspectors), such proxy being a qualified elector, and each elector shall be entitled to have a vote or votes thereat according to the following scale, (that is to say), if the license duty so paid by such person shall not amount to two pounds, one vote; if the same shall amount to two pounds and not to five pounds, two votes; and if the same shall amount to five pounds and not to ten pounds, three votes; and if the same shall exceed ten pounds, four votes.

Voting of electors.

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Qualification
of elected
conservators.

138. No person shall be eligible for the office of elected conservator in any electoral division in which he does not reside. No person shall be eligible for the office of or entitled to vote for a conservator who shall within three years next before the election have been convicted of being personally guilty of a breach of any of the provisions of this Act. If any person, while he is a conservator, shall be convicted of any such offence, the commissioners, with the consent of the Lord Lieutenant, may dismiss such conservator from his office, and direct the election of another in his place, and may, if they think fit so to do, declare such person ineligible in future for the office of conservator in the district in which he was such conservator.

Conservator
in place of
dismissed
conservator.

139. Any person who shall be elected a conservator in place of any conservator dismissed pursuant to this Act, shall, by virtue of such election, be and continue a conservator until the time when under the provisions of this Act the office of such dismissed conservator would determine if he had not been dismissed, and no longer.

Ex officio
conservators.

140. Every magistrate paying license duty within a district, and being an owner of land therein abutting on rivers or lakes, and any person possessing a fishery or fisheries in a district as owner, lessee, or occupier, valued under the Acts for the more effectual relief of the destitute poor in Ireland at *thirty pounds* yearly or upwards, and every owner of land having a frontage to any salmon river of an extent of not less than half a mile on either or both sides of the river, and whether he be in occupation of the fishery thereof or not, shall be ex officio conservators for such district, and shall be entitled to sit with the elected conservators for the same, and shall have a vote in all matters, and shall have all the powers and privileges under this Act which the said elected conservators individually possess. Where a fishery so rated shall be held by several persons as owners, lessees, or occupiers, one person alone shall be ex officio a conservator in respect of such fishery.

Ex officio
conservators.

141. No magistrate shall act or vote as such ex officio conservator unless at the time of taking out his license he shall state to the issuer of his license his residence and the name of the land in respect of which he claims to be an ex officio conservator, both of which shall be indorsed by the license issuer upon the license, and such indorsement, until cancelled as herein-after mentioned, shall be conclusive evidence of the right of such magistrate to act and vote as a conservator. The name of such person and the particulars of such indorsement shall forthwith be forwarded to the clerk of the

conservators, who shall enter and keep in a book such particulars, which shall at all times be open to the inspectors, the conservators, and all persons who have taken out licenses in the district.

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142. It shall be lawful for any person who has taken out any license in the district to object to such person continuing to be returned on said list, or act as such ex officio conservator, by notice in writing to the inspectors, who shall thereupon inquire into and examine such claim, at such place as they think fit. If the inspectors shall thereupon consider that the party is not entitled to be returned or continued as such ex officio conservator, they shall, by order under their seal, order his name to be removed from said list, and shall transmit said order to the clerk of the conservators, who shall forthwith remove such name from the list, and such person shall thereupon cease to have any right to be, or act, or vote as such ex officio conservator by reason of said entry of his name or indorsement on his license.

Objections to conservators.

143. Any person qualified to act as an ex officio member of any board of conservators shall previously to taking his seat at the board, or taking any part in the proceedings, or voting upon any question, sign a declaration stating the nature of the qualification entitling him to act as such ex officio member; and any person refusing to make such declaration, or wilfully making any false declaration, shall be liable to a penalty of *ten pounds*, and shall thereafter be disqualified from acting as a member of the board. All acts done and votes given by any such person, until his name has been duly removed by the inspector or otherwise, shall be valid and effectual though he may not at the time of doing or giving them have been an ex officio conservator.

Declarations by ex officio conservators.

144. The persons elected for each electoral division of a district shall, conjointly with such ex officio conservators as aforesaid, form a board of conservators of fisheries for such district, in this Act called "The Board."

Board.

145. The board of each district shall from time to time fix and determine and duly publish notice of the times and places for the general meetings of such board, and also as the inspectors shall direct, the times and places for the meetings of electors in each electoral division for each election of conservators for the same.

Meetings.

146. If any board shall neglect to give notice and appoint times and places for holding meetings for elections, the inspectors may appoint times and places for such purpose; and in such cases the election of conservators shall be as good and valid in law as if the meeting had been called by the conservators.

Inspectors may appoint meetings.

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Annual
meeting.

147. The board assembled at a district meeting may fix the time and place for holding a general annual meeting, and may hold adjourned meetings; and any three conservators from time to time may call special meetings of the board, provided that notice of the place and time of each such special meeting, subscribed by three or more conservators, or by the clerk of the board, on their requisition to him, shall be inserted twice in some newspaper circulating in the counties in which such district shall be situate, at least ten days before such meeting shall be held, or that the clerk of such board shall, on such requisition as aforesaid, give ten days notice by a registered letter of such meeting to each conservator entitled to act within such district. 5

Quorum.

148. At all district meetings of the board three of the persons entitled and empowered to act and vote thereat shall form a quorum, and all matters and things shall be determined and decided by the majority of such persons so assembled; and if on any matters upon which a difference may arise the votes shall be equal, the chairman in addition to his original vote may give a casting vote. 15

Inspectors
may attend
meetings.

149. The inspectors may attend any meeting of any board, and advise, consult, and confer with them upon the regulation, management, and improvement of the fisheries, and shall and may at all convenient times have access to and peruse, when they shall think fit, the books and accounts kept for the purposes of any district. 20

Procedure.

150. The persons assembled as aforesaid in each electoral division at any meeting for an election, and who shall be qualified to vote under this Act, shall choose a chairman to preside at such meeting, and shall elect the number of persons appointed as aforesaid to be elected for such electoral division, and the chairman shall receive the votes of the persons so assembled, and declare the persons who shall have received the greatest number of votes to be the elected conservators for such electoral division; and shall certify under his hand the election of each conservator, and furnish him with a certificate, which shall be sufficient authority for him to act as such conservator, and shall also within four days after such election cause a list of such conservators, with a statement of the residence and post-town of each, to be transmitted to the office of the inspectors. 25 30 35

Complaints
to inspectors
and inquiry.

151. If any complaint shall be made to the inspectors of, or they shall have reason to suspect the breach or violation at any election of any of the provisions of this Act, or of any of the regulations for such election made by the inspectors, the inspectors may inquire into such complaint and into the validity of such election and the 40

votes given thereat, and of the return of all or any of the conservators, and may make such inquiry on oath or otherwise as they shall think fit, and may alter the return made by the chairman as upon such inquiry they shall see fit, either by the addition to or
 5 erasure therefrom of names, or they may declare such election void, and order a new election for such division, and the decision of the inspectors on all matters relating to such election shall be final and conclusive.

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15 **152.** If the persons entitled to meet and elect such conservators in any one or more electoral division or divisions of a district shall fail or neglect so to do at the time appointed as aforesaid for the purpose, the elected conservators of any other one or more electoral division or divisions of such district may act in all matters and things relating to such district as if they had been elected therefor.

Conservators may act although all not elected.

15 **153.** If no electoral division in a district shall elect conservators at the time appointed as aforesaid for the purpose, the previously existing board of such district shall continue to act as, and be to all intents and purposes the board for such district until the next general election of conservators, unless the inspectors shall, as they
 20 are hereby empowered to do, if they think fit, appoint another time for such election.

Board to continue if no division elect.

154. In case any elected conservator shall die or become incapable to act during the period for which he is elected, the other conservators elected for the same district (notwithstanding such his death or
 25 incapacity) shall immediately summon another general meeting of the persons in his electoral division entitled to meet for the purpose of electing a conservator in his room, and such meeting shall be so summoned and held as is herein provided with respect to the annual general meetings, and the person elected at such meeting shall he
 30 and continue and act as a conservator for such electoral division and district during the residue of the said period: Provided nevertheless, that in the meantime and until such new election the said other conservators shall act for such district in all respects as they might have done but for such death or incapacity.

Vacancies in board.

35 **155.** The board for each district, at a meeting specially appointed by them for that purpose, to be held within one fortnight after their election in October next, and at any time afterwards when it may become necessary, shall nominate and appoint a local inspector and a clerk, to be approved of by the inspectors, with such
 40 reasonable salary as the said board may think necessary, and such local inspector and such clerk, subject to the provisions in the next

Appointment of clerk.

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section contained, shall hold office during pleasure of the board. The board at such meeting shall also appoint some bank to act as treasurer or treasurers of such board, and may appoint as many water bailiffs as may be necessary, with reasonable salaries, to the extent which the funds at their disposal will admit of, for the protection of the fisheries in the district, and for generally enforcing the Inland Fishery Laws within the same. Such appointments shall not be subject or liable to the payment of stamp duty. The water bailiffs shall hold their offices during the continuance in office of such board, unless removed for misconduct or any other reason by said board with the consent of the inspectors, or by the inspectors pursuant to the provisions of the next section.

Disqualifica-
tion.

156. No person shall be eligible for or hold any office or employment under or for any board who shall have been convicted of embezzlement or the commission within three years of any offence under this Act, or who shall upon inquiry be proved to the satisfaction of the inspectors to have had any deficiency or default in or with respect to or not to have satisfactorily accounted for any part of the funds of any board, and in case of breach of this Act by any officer or servant of the board, or his not accounting, keeping, and furnishing such accounts as required by this Act, or being guilty of any neglect of duty or misbehaviour, the inspectors, with the consent of the Lord Lieutenant, after inquiry held with respect to any such act or omission, may dismiss such officer or servant from his situation, and may direct and require the board to appoint (and in case of default for one week so to do the inspectors themselves may appoint) another person in place of such officer or servant, and may, if they shall think fit, declare such dismissed officer or servant incapacitated from holding any office or situation under or for said board.

Security
from officers.

157. The board of each district shall take security, to be approved of by the inspectors, from any clerk whom they may appoint, and from any other officer or person having the care or custody of money to be received by virtue of this Act, for the due execution of the duties of his office, and for his duly accounting for such money; and such clerk shall attend the stated and other meetings of the board, and shall, in a book or books to be provided for that purpose, enter and keep an account of all the moneys to be received by virtue of this Act, and of the application of the same, and of all the acts, proceedings, and transactions of the said board, and shall perform such other duties as the board may direct; and the inspectors and every conservator shall and may, at all convenient times, have access

to and peruse and inspect the same, and each such clerk shall furnish to the inspectors before the first of *February* in each year, or as often as they may require, an account of all moneys received and disbursed during the proceeding year, relating to his district under the authority of the board, and all such further information respecting the district or the fisheries thereof as the inspectors shall require.

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158. No conservator, being also a justice of the peace for the county or counties within which his district or electoral division is situate, shall be disqualified to sit and adjudicate as such justice of the peace, or at any quarter or petty sessions within the same, upon any complaint made or prosecution instituted by or on the behalf of the board of which he is such member in respect of any offence against this Act; and no conservator shall be qualified so long as he holds such office to receive or hold any office or appointment under this Act, or under any one holding any office or appointment under this Act, to which any salary, allowance, or remuneration is incident even though such salary, allowance, or remuneration may not be actually paid to or received by him.

Conservator may sit as justice of peace.

20 PART XV.—LICENSES ON ENGINES AND RATES ON FISHERIES.

159. All engines, instruments, or devices whatsoever used for the taking of salmon, or for the taking of eels, and all salmon, trout, and eel fisheries within any district, or on or off the seacoast thereof, shall (except as herein-after provided), before the same shall be used or fished in any year, be duly licensed and rated under this Act, and the license duty or rate thereon actually paid to the proper officer entitled to receive same.

Licenses on engines.

160. The license duty upon single salmon rods or any rods used for taking salmon, sea trout, or white trout, shall be *one pound*, and upon all other engines, instruments, and devices as aforesaid shall remain as at present fixed, unless and until they respectively shall be altered by the inspectors as herein-after provided.

One pound on salmon and white trout rods.

161. The inspectors shall from time to time as they shall think fit fix the amount of license duty to be paid for each year for every engine, instrument, or device (save single salmon rods) used for the taking of salmon, trout, or eels respectively within each such district, or on or off the seacoast thereof, and for every engine, instrument, or device for any such purpose which may be proposed to be used and which is not so set forth.

Inspectors to fix license duty.

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Inspectors to
fix rates.

162. The inspectors shall also fix from time to time the rate per centum to be paid for each year upon the poor law valuation, or the valuation assessed in the cases of salmon, trout, or eel fisheries, as mentioned in sections one hundred and seventy-four, one hundred and seventy-five, one hundred and seventy-six, and one hundred and seventy-seven of this Act within each district, or on or off the seacoast thereof.

License
duties.

163. No license duty or rate to be fixed by the said inspectors shall be less than the lowest sum specified, or exceed the maximum amount of duty specified at foot of this section, or the rate of *ten* per centum on the poor law valuation of established or several or other fisheries; any alteration in the license duty or rate to be made shall commence on and from the *first day of January* in the then succeeding year.

SCALE OF LICENSE DUTIES.

	£	s.	d.	£	s.	d.	
1. Single salmon and sea trout rods	1	0	0	—			15
2. Cross lines and rods	2	0	0	to	3	0	0
3. Snap nets	2	0	0	"	2	0	0
4. Draft nets or seines	3	0	0	"	6	0	0
5. Drift nets	3	0	0	"	6	0	0
6. Trammel or draft nets for pollen	1	0	0	"	3	0	0
7. Pole nets	1	0	0	"	4	0	0
8. For every gap, eye, or basket in any weir for taking eels	1	0	0	"	3	0	0
9. Bag nets	10	0	0	"	20	0	0
10. Fly nets, stake nets, or stake weirs (Scotch)	20	0	0	"	40	0	0
11. Head weir	10	0	0	"	20	0	0
12. For every box, crib, cruipe, or dram net in any weir for taking salmon or trout	10	0	0	"	20	0	0
13. Any other engine or device for taking fish	5	0	0	"	20	0	0

Exemptions
as to rods.

164. Rods used singly for taking other fish than salmon or sea trout or white trout, shall not be subject to any license duty under this Act; but if any person using a rod shall take and kill salmon or sea trout or white trout with such rod, such person shall be subject to a penalty of double the amount of the license duty for the time being payable for a single salmon rod, and the same shall be recoverable before a justice in like manner as other penalties under this Act.

165. If any person shall erect or use any engine, instrument, or device whatsoever, subjected to license duty as aforesaid for the taking of salmon, trout, or eels, or by any means fish within any salmon, trout, or eel fishery in any year, without the same respectively being duly licensed for such year under the provisions of this Act, every such engine, instrument, and device, and such means of fishing, shall be forfeited and sold, or otherwise disposed of, as the justices shall deem fit, and the entire proceeds thereof shall be added to the general funds of the district constituted under this Act in which the same shall be erected or used.

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Penalties on fishing without license.

166. Any person erecting or using any engine, instrument, or device whatsoever, without being duly licensed under the provisions of this Act, or fishing on any fishery without having paid the rate then due on such fishery, shall be liable to pay such penalty, not less than double nor more than treble the license duty which the engine, net, instrument, or device he shall have been so using or erecting would for the time being be subject to under this Act in the district, or less than double or more than treble the rate then due, and shall forfeit the engine so used.

Penalties on fishing without license.

167. Any person using any such engine, instrument, or device as aforesaid, or having the same erected or in fishing order, or found with the same in his possession in or near any fishing place, or going to or returning from fishing, shall and is hereby required to produce to the inspectors, or any officer of the inspectors, or to any conservator of the district, or any person producing a license or license certificate for such district, or to the owner of lands on the bank of any river in the district, or any inspector, water bailiff, or officer or man of the navy, coastguard, or constabulary, when demanded, the license for the same, under and subject to like penalties (in case of failure) as in the last preceding provision mentioned: Provided always, that any party who shall to the satisfaction of the justices be proved to have such engine, instrument, or device in his possession as manufacturer or seller of the same, and not for the purpose of using the same within the year in which such demand shall be made of them respectively, shall be exempt from any such penalty.

Licenses to be produced.

168. All licenses and license certificates under this Act shall be prepared and printed in such form as the inspectors of fisheries or board of magistrates shall prescribe or from time to time think necessary to adopt; and a separate license shall be issued for each separate engine, instrument, or device for taking fish, and each license shall be stamped with the seal of the board, which seal shall be pro-

Preparation of licenses.

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vided for such purpose; and the year for which such license shall issue, and a name, number, or letter describing the district and the electoral division for the purposes of this Act in which the license shall be used, and the name of the engine, net, instrument, or device for which the same shall be issued, shall be printed thereon in clear 5 and legible characters; and in rod and cross line licenses, the name and address of the person to or for whom they are issued shall be legibly written, and all licenses shall be only good and valid for the year, district, and purpose for which they respectively shall be issued, and for no other; and any party using or presenting the 10 same for any other year, district, or purpose, or in any manner altering or fraudulently counterfeiting the same, shall be liable to a penalty not less than the whole amount of the license duty for which the same shall have been issued, or which the party so mis- 15 using or counterfeiting the same would be liable to under this Act, and not exceeding double the amount of the same, at the discretion of the justices before whom the offence may be tried.

Names of
licensed
persons.

169. No rod or cross line license or license certificate shall be available for or be used by any person save the person named therein, and any other person using such license or license certi- 20 ficate, or producing same as his own to any person by this Act authorised to demand licenses, in addition to any other penalty to which he may be liable under this Act, shall be liable to and pay the sum of *two pounds*; and any person so named in such license who shall give to or permit his license or license certificate to be 25 so used or fished with by any other person shall be liable to pay the same sum.

Sale of
licenses.

170. Licenses and license certificates shall be sold only in the districts for which they are issued, and only either by licensed stamp distributors or by license distributors appointed by the board, 30 adequate security being taken by the board from the persons authorised to sell the same for duly accounting for the amount of the same, and for the due performance of their duty; and the cost for any allowance to be made for the sale of licenses and license certificates shall be approved of by the board, and shall be 35 charged to the expenses of the district for which the same shall be issued.

Persons
entitled to
licenses.

171 Any person demanding to purchase license, and tendering to any person so appointed to distribute the same the amount of license duty for the time being to be paid in the district for the 40 engine for which the license shall be demanded, shall be entitled to receive the same without any question or objection on any

grounds whatsoever; but the possession of any such license or license certificate, or the payment of the license duty or rates, shall not give or confer any right of fishing or of using any instrument or device for taking fish by any means or in any place which the party having or using such license would not have possessed if this Act had not been passed, or alter or affect the rights of any other person.

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172. Any person who shall have paid a license duty for a single salmon rod for any district, shall, before angling with a rod in any other district, in case the board of conservators pass a resolution to that effect, pay to some licensed distributor in each such other district the sum of *two shillings and sixpence*, and upon the production of his license, and payment of said sum to any distributor of licenses in any and every district other than that in and for which his license shall have issued, he shall be entitled to receive from such distributor a license certificate in such form as the board shall approve, in which his name and address, as in his license, shall be inserted, and same shall be stamped with the seal of the board of the district; and such certificate shall, for the purposes of this Act, and of fishing within such district, have the same effect as a license issued to such person within and for such district, and shall be construed to be a license for the purposes of this Act; any person acting contrary to or in violation of the provisions of this section shall be liable to pay for each offence a sum not less than *ten shillings* and not exceeding *two pounds*.

License for fishing with salmon rod in other district.

173. All licensed stamp distributors and persons whom the board shall appoint distributors of licenses as aforesaid shall furnish to the board an account of such sales monthly, or so often as they may require, and to the inspectors annually or when required, and shall set forth in such accounts the sums received for licenses and certificates for each particular engine, instrument, or device, the names and residences of the persons who shall have purchased such licenses as aforesaid, and the district and electoral division of such district for which such licenses shall have been obtained. And all moneys so received shall be paid to the treasurer of the district or electoral division, as the board may direct, and in no case later than the thirtieth day of September in each year.

Monthly returns.

174. In all cases of salmon, trout, or eel fisheries within each district in, on, or off the coast thereof, whether the same be fished by means of weirs extending entirely or partly across rivers or estuaries, with boxes, baskets, or cruives, or be fished by means of existing

Salmon, trout, and eel fisheries to pay annual rate

A.D. 1871. natural or artificial obstruction stopping the fish, or by nets, or by rod and line, or any other means or device whatsoever, the persons using, occupying, or holding such fisheries, whether such occupation and holding shall be by lease, demise, agreement, or tenancy at will, or in fee simple, fee tail, or for life, shall in each year pay as an annual rate, in two equal half-yearly gales, on the *first day of February* and the *first day of July*, such sum in addition to the license duty by this Act provided to be paid for the engines, instruments, or devices erected or used in fishing such fishery as shall be fixed by the board of conservators, not less than the annual sum of five per centum upon the poor law valuation of such fishery, and not exceeding the annual sum of ten per centum upon the poor law valuation of such fishery, subject to such alteration of such per-centage as may from time to time be made by the board of the district under the provisions of this Act. 5 10 15

Power of board to assess rate.

175. In case any such fishery shall not have been valued under the poor law valuation, it shall be lawful for the inspectors by byelaw to assess said rate upon the rent paid by the occupier of said fishery to the owner, or upon the annual value of such fishery.

Recovery of rate.

176. Any such rate may be recovered in a summary way before any one or more justice or justices of the peace in like manner as wages, or by civil bill before the chairman of the county, or by action in the superior courts at the suit of the clerk of the board. And in any such proceeding the clerk of the conservators may be the plaintiff or complainant. 20 25

Poor Law Commissioners to value fishery on request.

177. Where any such fishery as last aforesaid shall not have been valued or not valued separately for the purposes of the poor laws, the inspectors, or the board of conservators, or any other person or persons, may and are hereby empowered to call upon any board of guardians or upon the Poor Law Commissioners of Ireland, who are hereby required to cause the same to be valued separately from other property for the purposes of this Act; but such rating shall not confer a right or title to any such fishery or any other right or title which the person possessing it would not have possessed otherwise. 30 35

Alteration of rate.

178. Such last-mentioned rate shall be collected by the clerk of the board, adequate security being taken by the conservators for the duly accounting for the same and for the due performance of the duties which the said conservators may prescribe for said clerk under this section. The costs of said collection shall be charged to the expenses of the district for which the same shall be collected. 40

179. Any party who shall conceive himself or any other person to be unduly, or unequally, or insufficiently charged by any such board with any license duty or rate as aforesaid, may appeal against any order or byelaw to the chairman of quarter sessions for the district, and such chairman shall hear and examine into such appeal and adjudicate thereon, and such adjudication shall be final.

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Appeal against license duty or rating.

180. Until and unless any charge shall be reduced or disallowed by such chairman, the party charged shall be deemed liable to the full amount of license duty or rate wherewith he shall have so been charged. If such charge shall be so reduced or disallowed as aforesaid such reduction or disallowance (as the case may be) shall relate back to the time of making such charge, and shall operate either by way of further charge or of discharge in full, or pro tanto, as the case may be; and if it shall operate by way of discharge as aforesaid, and the party so discharged shall have theretofore actually paid the amount of such charge, he shall immediately upon such adjudication be entitled to receive back from the board for such district the full amount of such charge, or the excess beyond or over the true amount of such charge in conformity with the said adjudication: Provided always, that due notice of the party's intention to present such appeal shall be by him served upon the board within ten days after he has received notice of the making of such charge.

Parties charged to be liable until charge reduced or disallowed.

PART XVI.—APPLICATION BY CONSERVATORS OF RATES AND DUTIES.

25

181. The amount of all sums received for license duties and rates, and for penalties (save so much as shall be receivable by any plaintiff, prosecutor, or any informant) under the provisions of this Act for each such district, shall be paid over by the parties receiving the same to and received by the treasurer of each district, and be applied to the purposes of such district for the watching and preservation of salmon and trout during the close season and for the construction of fish passes, the construction of gratings, and the removal of obstacles to the migration of salmon and trout, and for any compensation to be ordered to parties by the Commissioners of Public Works under the provisions of this Act, and otherwise as the board may order under the provisions of this Act. Such treasurer shall pay such sums of money as shall be required for the purposes of the district from time to time upon a draft or order signed by the chairman at any general meeting of the board and two other conservators.

Disposal of funds.

[227.]

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Annual
publication
of lists of
persons
rated.

182. The inspectors shall publish annually in their report a list of all persons charged with rates on fisheries, the valuation of such fishery, and the amount of such rate on each person in each district.

Annual
close time.

PART XVII.—CLOSE TIMES : NETTING : BOATS USED IN FISHING.

183. The annual close time during which it shall not be lawful to take salmon, except with single rod and line, shall not comprise fewer than *one hundred and sixty-eight* days in each year. Until an alteration is made by the inspectors in pursuance of the powers given to them by this Act, the annual close times now established and in force for salmon, trout, and eels respectively in each district for all engines and devices shall continue.

Close time
for angling.

184. The annual close time for angling for salmon and trout with single rod and line shall be from the first day of *November* in each year to the thirty-first day of *January* in the year following. Any person who shall angle for salmon or trout during the annual close time shall, for each offence, forfeit and pay a sum not exceeding *five pounds*.

Exemptions
as to scientific
purposes.

185. Nothing in this Act contained shall apply to any person who shall catch or attempt to catch, or shall have in his possession, during the annual close times respectively, any salmon or trout for the purposes of artificial propagation or other scientific purposes.

Weirs not to
be used after
1st Sept.

186. No weir, fixed crib, cruipe, box, or other fixed machine or device for catching salmon or trout, shall be used between the *first day of September* and the *thirty-first day of December* in any year.

Public meet-
ings as to
close time.

187. The inspectors may (if they shall so think fit) upon the application of any person possessed of or interested in the fisheries in any district or in any fishery in a particular locality, call a meeting of the persons possessed of or interested in such fisheries or fishery, giving notice of the day and place appointed for such meeting, not less than fourteen days from the date of such notice, by printed handbills and advertisement in such newspaper circulating in the county or several counties within which or on the coast whereof such fishery is in whole or in part situated as the inspectors think fit; and it shall be lawful for the said inspectors to issue summonses for witnesses to attend and give evidence with respect to the said fisheries; and the said inspectors shall at such meeting hear and receive all such pertinent evidence as shall be offered to them on the subject of the said fisheries, and shall examine and inquire into the

same upon oath, by inspection or otherwise, and by all such means as may be deemed expedient by them, and may, if they think fit, alter the annual close time for the fisheries of the district or for the fishery in any particular locality, and decide that such other period or periods as shall be fixed upon by them as the annual close time for such fishery or fisheries shall be kept and observed in such district or locality in lieu thereof, and may alter the period within which it shall not be lawful to hang any coghill or other nets in the gaps, eyes, or sluices of eel or other weirs, or make use of fixed engines for taking eels.

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188. The annual close time so fixed shall continue for three years and until changed by the inspectors, and at any time after the expiration of three years from the commencement thereof, or at any time after the expiration of a like period of three years from the commencement of any subsequent change to be made in pursuance of the provisions of this Act, the inspectors may, upon the like application (if upon like inquiry they shall so think fit), again change the same, taking the same proceedings towards so doing as are herein-before prescribed in relation to the first change, and the provisions aforesaid shall apply to all such changes.

Close time
when fixed
to continue
for three
years.

189. The decision as to the annual close time of any district, or of any lake or river, or the fishery in any locality, or as to the periods within which it shall be lawful to take eels by means of eel weirs, coghill nets, baskets, or other fixed engines, shall be published in the Dublin Gazette, and in some newspaper or newspapers circulating in the county or each of the counties within which such district or fishery is in whole or in part situated, or such lake or river is situate, or through which it in whole or in part flows, and a copy thereof lodged in the office or offices of the clerk or clerks of the peace for such county or counties aforesaid; and the inspectors shall give to said decision such further publicity, either by the posting of handbills or otherwise, as to them shall seem fit; and such change or alteration shall commence and take effect at the expiration of six weeks from the date of the publication of the said decision in the Dublin Gazette; and for the purpose of convicting any person offending against such decision a copy of the Gazette containing such decision, or a copy of such decision, purporting to be certified as such by the clerk of the peace with whom the same may be lodged, and who is hereby required to furnish the same on payment of a sum not exceeding *two pence* for every seventy-two words, shall be conclusive evidence of the existence of such decision and the due publication thereof.

Publication
of close time.

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Removal of
engines dur-
ing annual
close time.

190. During the annual close time for salmon the owner or occupier of every salmon fishery shall cause to be removed and carried away from such fishery, and the weirs and dams connected therewith, and from the river or stream in which such weirs or dams are placed, and from the landing-places adjoining thereto, 5 every engine, spear, net, inscale, beck, and rail of all cruives, boxes, or cribs used for the purpose of taking or killing salmon, and the tops of such cruives, boxes, or cribs, and all planks and temporary engines and fixtures used and required for the fishing of the same; and every obstruction to the free passage of the fish in and through 10 every such cruiue, crib, or box shall be wholly removed and carried away within *thirty-six hours* after the commencement of the annual close time for salmon, and shall not be again placed or allowed to be placed or to remain therein until within *thirty-six hours* of the end of such close time; any person offending against this section 15 shall forfeit such nets, engines, tackle, or contrivances, and shall for every such offence forfeit and pay a sum not exceeding *fifty pounds*, and for every day during which he shall suffer such obstacles and other things to remain unremoved beyond the period prescribed by this Act he shall forfeit and pay a sum not exceeding *five pounds*, 20 and the justice of the peace before whom the person so offending shall be convicted may order the removal and sale of such nets, engines, or other tackle at the expense of the person so offending: Provided always, that nothing herein contained shall be construed to render liable to any penalty any person who shall be prevented 25 by floods, storm, or stress of weather from removing any such net, engine, or tackle during the continuance of such prevention, if upon the cessation of such prevention he shall not kill or take any salmon found therein; and provided also, that the owner or occupier of any salmon weir, now legally entitled by patent, charter, or other- 30 wise to a right of fishing for eels in such weir, and who exercised such right previous to the tenth day of August one thousand eight hundred and forty-two, shall not be liable to any penalty on account of his placing, hanging, or using coghill or eel nets or baskets in the eyes or gaps of such weir, if such coghill or eel 35 nets or baskets be only used in conformity with the provisions of this Act, and be only hung in four fifths in number of the eyes and gaps of such weir, and the other one fifth of such eyes or gaps, in addition to the Queen's or free pass, be kept open and unobstructed for the free passage of salmon, as herein provided; and provided 40 also, that nothing herein contained shall be construed to exempt such owner or occupier from liability to the penalties by this Act directed in case any salmon shall be killed, taken, or caught in such

weir during such close time, or in case he shall not keep open and unobstructed, according to the provisions of this Act, one fifth in number as aforesaid of the eyes or gaps of the said weir. A.D. 1871.

191. During the annual close time for salmon every person who shall be engaged in fishing for salmon by means of fixed engines shall cause to be removed and carried away, from the poles and fixtures to which they shall be attached, all nets or other devices used for the purpose of taking salmon, except where such devices or engines shall be formed of wood or other rigid substance, in which case a clear opening of four feet in width shall be made and maintained in and completely through the pouches, traps, or chambers of all such devices or engines, from the top to the bottom of such pouches, traps, or chambers, and in the eyes of head weirs, so as to allow the free passage of salmon through the same, and effectually to prevent the catching or taking of any fish therein; and in case any such person shall offend against this section he shall forfeit all such nets or engines and shall forfeit and pay a sum not exceeding *fifty pounds*, and shall for every day during which such nets or engines shall remain and be unremoved beyond the period prescribed by this Act forfeit and pay a sum not exceeding *five pounds*: Provided always, that nothing herein contained shall be construed to render liable to any penalty any person who shall be prevented by storm or stress of weather from removing such nets or engines, or making such openings as aforesaid, during the continuance of such prevention, provided he shall not, upon the cessation of such prevention, kill or take any salmon found therein.

Removal of nets during annual close time.

192. Every owner or other person who shall be engaged in fishing for salmon by means of nets of any kind, shall cause to be removed or carried away from every strand and from the banks of every river and from the vicinity thereof during the annual close time for salmon, all such nets; and in case any person shall offend against this section he shall forfeit all such nets and shall forfeit and pay a sum not exceeding *ten pounds* nor less than *two pounds*.

Removal of nets during close time.

193. If during the annual close time for salmon for any river, lake, estuary, or any part of the sea-coast, any person shall take or fish for, or aid or assist in taking or fishing for, any salmon therein or therefrom, such person shall forfeit and pay any sum not less than *three pounds* and not exceeding *ten pounds* for every such offence, and shall also forfeit every fish so taken, and every net or engine by which the same may have been taken; and if any person shall buy, sell, or expose to sale, or have in his custody or possession the whole

Penalties for fishing.

A.D. 1871. or any part of any salmon caught in the annual close time, such person shall forfeit every such fish, or part thereof (as the case may be), and a sum not less than *ten shillings* and not exceeding *two pounds* for each such fish or part of a fish; and in any proceeding for the recovery of the said last-mentioned penalty, proof that such 5 person had the salmon or part of a salmon in his custody or possession during such close time shall be *prima facie* evidence that the said salmon, or that to which the said part belonged, was caught during the close time as aforesaid; and all persons empowered to enforce the provisions of this Act may seize all such salmon, or any 10 such portion thereof as aforesaid, when so found in the possession of any person or exposed for sale during the close time.

Exemptions. 194. The provisions of the preceding section shall not apply to salmon or trout caught with single rod and line during the open time for fishing therewith, in the same or any other district; but 15 the burden of proving that any fresh salmon or trout, or part thereof, bought, sold, or exposed for sale, or in the custody or possession of any person during the annual close time for netting in the district where same may be found was caught in another district, or with rod and line within the open times aforesaid, 20 respectively, shall rest upon the person who shall have, as aforesaid, bought, sold, or had in his custody or possession any salmon or trout.

Penalties for fishing in close time. 195. If any person, during the close times for eels, shall hang or fix any coghill, eel, or other net or basket, or basket-work, in the 25 eye, gap, or sluice of any weir in any river, or make use of any other fixed engine for taking eels, or shall, during the fishing time for eels keep or leave such net, basket, or other engine set, or in the water, in the eye, gaps, or sluices of such weirs, between sunrise and sunset, such person shall forfeit such nets, and, in the first case, 30 shall forfeit and pay a sum not less than *one pound* and not exceeding *ten pounds* for each such net; and, in the second case, shall forfeit and pay a sum not less than *ten shillings* and not exceeding *five pounds* for each such net; and in any proceedings against any person for the recovery of any penalty incurred by violation of any 35 provision of this section, proof that such person is the occupier of such weir shall be *prima facie* evidence that the said nets were hung or set, or left hung or set, by him.

Weekly close time. 196. No salmon or trout shall be fished for or taken in any way, except by single rod and line, during the weekly close time, which 40 shall be, until changed under this Act, between *six of the clock* on

Saturday morning and six of the clock on the succeeding Monday morning. A.D. 1871.

197. The inscales or gates and rails or frame-work of all cribs, boxes, or cruives for the catching of salmon, or other fish, shall be removed out of or opened in each such crib, box, or cruive, eye, sluice, or gap, in every fishing weir or fishing milldam in such a manner that during the weekly close time a clear opening of not less than four feet in width from the bottom to the top of each such crib, box, or cruive shall be left therein, so that a free, direct, and uninterrupted space or opening of the said width shall be effectually secured for the passage of fish up and down through each of such boxes, cribs, or cruives.

Regulations
as to cribs,
&c.

198. In each fixed engine a clear opening of at least four feet in width shall be made and kept free from obstruction during the weekly close time in the pouches, traps, chambers, or eyes of the same, from the bottom to the top thereof, so as effectually to allow of the free passage of salmon through such pouches, chambers, and eyes during such weekly close time; and the netting of the leader of every fixed engine shall during such weekly close time be raised and kept out of the water, and in all rivers, lakes, and tideways all other nets and baskets whatsoever, except those used for the taking of oods, shall be wholly removed and taken out of the water for and during the weekly close time.

Openings
during
weekly close
time.

199. Any person offending against either of the three preceding sections, and any person using any means, device, or contrivance to prevent the free passage through such box, cruive, or engine, or in any way or by any means wilfully frightening or scaring, or attempting to frighten or scare, any salmon from passing through such box, crib, cruive, or other engine, during the weekly close time, shall for every such offence forfeit and pay a sum not less than *two pounds* and not exceeding *twenty pounds*; and the fish, and any net or other instrument, and the inscales or grates and rails of any crib, box, or cruive used between the times aforesaid, shall be forfeited: Provided always, that nothing herein contained shall be construed to render liable to any penalty any person who shall be able satisfactorily to prove that he was prevented by floods, storm, or stress of weather from making such openings as aforesaid, during the continuance of such prevention, but no longer, provided that upon the cessation thereof he shall not take, kill, or destroy any salmon then found in such box, cruive, or engine.

Penalties.

200. The name and address of the owner of all boats or coots used in fishing for salmon or trout shall be painted in letters three

Names to be
painted on
boats.

A.D. 1871. inches long on the outside of the boat and not more than three inches below the gunwale.

Forfeiture of
boats, &c.

201. If it be proved to the satisfaction of the justices that any boat, cot, or curragh found on or near waters frequented by salmon has been used for the capture of salmon during any part of the annual or weekly close time for salmon, the person who shall be proved to have so used such boat, cot, or curragh shall for the first offence be subject to a penalty not exceeding *five pounds*, and for the second or any subsequent offence, in addition to the foregoing penalty, the boat, cot, or curragh so used may be seized and forfeited; but this section, so far as relates to the forfeiture of the boat, cot, or curragh, shall not come into operation where a boat is used by some person other than the owner thereof, and the owner proves to the satisfaction of the justices that it was so used without his knowledge or consent.

Prohibition
of netting,
&c.

202. No person shall fix or attach any nets to any stakes, bridges, sluices, lock-gates of canals, or other such fixed erections, or shall lay, draw, or fish with any nets whatsoever, except nets for the taking of eels as by this Act provided, during the annual or weekly close time for salmon; and if any person shall offend in any of the cases aforesaid, he shall forfeit every net used in doing or committing such offence, and shall for the same forfeit and pay any sum not exceeding *ten pounds* and not less than *two pounds*.

Prohibition
of netting at
night.

203. No person shall use any net (except a landing net, as auxiliary to fishing with rod and line) for the capture of salmon or trout in the fresh-water portion of any river, as defined by the inspectors between the hours of *nine o'clock* in the evening and *six o'clock* in the morning, except so far as the same may have heretofore been used within the limits of a several fishery next above the tidal flow, and held under grant or charter, or by immemorial usage; and every person offending against the provisions of this section shall be subject to a penalty not exceeding *ten pounds*, and to the forfeiture of all boats, nets, and gear used in such fishing.

Meshes of
nets.

204. No net for the taking of salmon in tidal waters, or for the taking of any fish in the fresh waters, shall be used with a mesh of less size than one inch and three quarters from knot to knot, to be measured along the side of the square, or seven inches, to be measured all round each such mesh (such measurements being taken in the clear) when the net is wet, or such other size as may from time to time be permitted by the inspectors or conservators; and if any person shall use any net contrary to this provision

he shall forfeit and pay a sum not exceeding *ten pounds*, and such net shall be forfeited. A.D. 1871.

205. In the inland and fresh-water portions of rivers and lakes in Ireland no person save the owner of a several fishery within the limits thereof, or any person authorised by him in writing, shall, at any period of the year, lay, draw, make use of, or fish with any net for the taking of salmon or trout, unless in cases when a general public right of fishing for salmon or trout with such nets, in the nature of a common of piscary had been enjoyed for a space of twenty years next before the tenth day of August one thousand eight hundred and forty-two; and if any person shall offend contrary hereto, such person so offending shall forfeit all such nets so used, and shall also forfeit and pay a sum not exceeding *ten pounds*. No person save owner of several fishery to net, &c.

206. No net or other engine covered with canvas, hide, or other material, by which unsizable and young fish may be taken or destroyed, shall be used in any fresh waters at all, or in any tidal waters except for the purpose of dredging for shell fish, and every person offending against this section shall forfeit the net or engine, and shall also for every such offence forfeit and pay a sum not exceeding *ten pounds*. Prohibition of canvas, &c. nets.

207. When any person shall be found in any tidal or fresh waters, or on land, offending against any of the provisions of this Act by the use of any illegal net, engine, or device for the taking of fish, or by the use of any net, engine, or device prohibited at such time, or in any other manner, any officer or person empowered to enforce the provisions of this Act, or any person interested in the fishery in which such illegal act may be committed, may require the person so found offending forthwith to desist from such offence, and also to tell his Christian name, surname, and place of abode; and in case such person shall after being so required refuse to tell his real name or place of abode, or shall give such a general description of his place of abode as shall be illusory for the purpose of discovery, or shall wilfully continue such offence, the officer or person so requiring as aforesaid, and any person acting by his order and in his aid, may seize such net, engine, or device, and apprehend such offender, and convey him, or cause him to be conveyed, as soon as conveniently may be, before a justice of the peace, to be dealt with according to law. Proceedings in case of illegal fishing.

208. No person so apprehended under the last section shall, on any pretence whatsoever, be detained for a longer period than twenty-four hours from the time of his apprehension before he shall be

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No person to be detained longer than twenty-four hours.

A.D. 1871. brought before some justice of the peace; and if he cannot, owing to any reasonable cause, be brought before a justice of the peace within that time he shall be discharged, but may, nevertheless, be proceeded against for his offence, according to the provisions of this Act, as if he had not been apprehended. 5

Officer to retain illegal nets until petty sessions.

209. If any officer or person authorised by this Act to seize illegal nets or engines, or nets or engines of a legal form and size when used contrary to the provisions of this Act, or any of the by-laws to be made in pursuance hereof, shall seize the same, he may retain the same in his custody until the next sitting of the petty sessions court in the district where the same shall be seized, or any adjournment thereof, and at such petty sessions court the justices may order and direct the same to be forfeited, and in case the net or engine shall be such as cannot be legally used under the provisions of this Act, to order it to be destroyed; and in case it shall be such as may be legally used according to the provisions of this Act, the justices may order it to be sold, and the money arising therefrom to be applied in the same manner as penalties imposed for violation of the provisions of this Act. 15

PART XVIII.—ANGLING.

20

Owner of land to have power to fish with rod and line.

210. Nothing in this Act contained shall be construed to hinder or prevent the owner of any land adjoining any lake or river, and not being within the limits of a several fishery, or any person authorised by him, from taking, catching, or fishing for salmon and trout with single rod and line in any such lake or river. 25

Prohibition of cross lines in certain cases.

211. No person (save the owner of a several fishery, or a person duly authorised by him in writing, within the limits thereof) shall take, catch, or fish for any salmon by means of cross lines in any river, and any person so offending shall forfeit and pay a sum not exceeding *ten pounds* for each offence, and the rods and lines used, and any fish taken, shall also be forfeited. 30

Trespass.

212. If any person shall enter upon any lands or premises for the purpose or under the pretence of angling without authority in writing from the owner or occupier of such lands or premises, every such person shall forfeit and pay a sum not exceeding the sum of *35 two pounds* for every such offence.

PART XIX.—MAGISTERIAL PROCEDURE.

Jurisdiction of justices.

213. The jurisdiction of justices of the peace of every place within or belonging to all counties, or counties of cities or towns in

A.D. 1871.

Ireland, any part whereof shall adjoin the seacoast, or any of the estuaries thereof, shall extend to offences against the provisions of this Act, or any of the bylaws (hereby authorised to be made) committed by fishermen and others engaged in fishing, or by any person or persons whatsoever while at sea, as fully and effectually to all intents and purposes as if the offences had been committed upon land; and such justices may issue their warrant for the arrest of any fishermen or others so offending as aforesaid, whether he or they shall happen to be upon land within any part of the kingdom or in any vessel at sea, and may employ any person or any of the ways and means for causing such arrest to be made as such justices are now authorised and empowered to do in case of offences committed upon land within their respective jurisdictions; and such justices shall have the like powers or remedies for the arrest, committal, or punishment of fishermen, and other persons offending at sea as aforesaid, either against this Act, or any of the bylaws to be made in pursuance thereof; and the like powers and remedies for the seizure at sea of the vessels or other goods and chattels of the said fishermen or other persons so offending as aforesaid, as he or they possess by any law or statute now in force, or shall under this Act possess in case the said offences respectively had been committed upon land, or the said goods and chattels had been upon land within their respective jurisdictions.

214. Where any of the offences mentioned in this Act shall be committed in or upon any water forming the boundary or mearing line between any two districts of petty sessions, such offence may be prosecuted before any justice or justices of the peace in either of such districts and in no other, and may be alleged and stated to have been committed in such district.

Provision as to offences in the mearing line between two districts.

215. All offences which by virtue of this Act, or of any bylaw to be made pursuant to the provisions of this Act, are or shall be subject to or punishable with any pecuniary penalties, fines, or forfeiture, shall and may be heard, adjudged, and determined in a summary way, under and according to "The Petty Sessions (Ireland) Act, 1851," and shall be considered as cases of "summary jurisdiction" within the meaning of that Act when the case shall be heard in a petty sessions district, and according to the provisions of the Acts relating to the Dublin divisional police offices (when the case shall be heard in the police district of the Dublin metropolis), so far as the said provisions shall not be inconsistent with any special provision of this Act, save and except that an appeal to the chairman of the county in which the

Summary jurisdiction.

A.D. 1871. offence has been alleged to have been committed, subject to the provisions of "The Petty Sessions (Ireland) Act, 1851," and under said Dublin Police Acts, shall be allowed in all cases of convictions and all orders for dismissal relative to offences under this Act. All penalties received, notwithstanding any provisions in the Acts relating to the 5 police district of the Dublin metropolis or in any other Acts, shall be applied and distributed in the manner by this Act provided.

Informant's evidence may be used. 216. Upon any trial or other proceeding for recovery of any penalty, fine, or forfeiture under this Act, any informer or other person who, in the event of a conviction, shall be entitled to any 10 part, share, or proportion of the penalty to be recovered thereon, shall be received and admitted as a witness on such trial or other proceeding, and such testimony shall, if believed, be sufficient as far as the same testimony would be if given by an indifferent person. 15

Returns. 217. A return or report shall be made once in every three months to the said inspectors from every petty sessions or other court in Ireland where any offender shall be prosecuted and convicted under the provisions of this Act by the clerk thereof, and such return or report shall contain the name of every person who 20 shall be so convicted of any offence against the provisions of this Act, together with the nature of the offence and the punishment inflicted, and the amount of the fine imposed and levied upon every such person so convicted as aforesaid; and any such clerk neglecting or omitting to make such return shall forfeit and pay a sum not 25 exceeding *five pounds*.

PART XX.—OFFENCES AND PENALTIES: CLOSE TIME AS TO SALE.

Deleterious matter. 218. No person shall throw or empty, or cause to run or flow into any river or lake, any dye stuff or other liquid or matter injurious, deleterious, or poisonous to fish or other animals using the 30 waters thereof, or shall steep in such river or lake any flax or hemp, and if any person shall so offend he shall forfeit and pay for every such offence any sum not exceeding *ten pounds* and not less than *three pounds*.

Penalties on persons found near bank with poisonous matter. 219. Any person found on the bank of or near any river with 35 any matter in his possession injurious, deleterious, or poisonous to fish under such circumstances as shall satisfy the court before whom he may be tried that such person had employed or was about to employ such for the capture or destruction of fish, shall be subject to a penalty of not more than *ten pounds* for every such offence; and 40 any person found taking fish from any river or lake, where it shall

be proved to the satisfaction of any justice or justices that such fish have been wilfully poisoned, shall be subject to a penalty of not less than *ten shillings* nor more than *five pounds*.

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220. If any person shall kill, take, or destroy any salmon or trout in or out of any pond, private canal, or reservoir wherein the same are kept, and wherein he has no property, without the consent or license of the owner of such pond, private canal, or reservoir, and be thereof convicted, every such person for every such offence shall forfeit any sum not exceeding *ten pounds*.

Trespass in taking salmon and trout.

221. If any person not authorised by the owner, lessee, or occupier of a several fishery shall enter into or upon such several fishery for the purpose or under the pretence of killing or taking, or shall kill or take, salmon or trout therein or therefrom, he or they shall for every such offence forfeit and pay a sum not less than *ten shillings* nor more than *five pounds*.

Trespass to a several fishery.

222. Whosoever shall unlawfully and wilfully take and destroy any salmon or trout or other fish in any water which shall run through or be in any land adjoining or belonging to the dwelling-house of any person being the owner of such water or having a right of fishing therein, shall be guilty of a misdemeanor, and shall forfeit and pay a sum of money not exceeding *twenty pounds*.

Wilful destruction of salmon and trout or fish in water near dwelling.

223. Whosoever shall unlawfully and wilfully take or destroy, or attempt to take or destroy, salmon or trout or other fish in any water which shall be private property or in which there shall be any private right of fishing, shall, on conviction thereof before a justice of the peace, forfeit and pay over and above the value of the fish taken or destroyed (if any) such sum of money not exceeding *five pounds* as to the justice shall seem meet.

Wilful destruction of fish in water private property.

224. Nothing in sections two hundred and twenty-two and two hundred and twenty-three contained shall extend to any person angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset; but whosoever shall by angling between the beginning of the last hour before sunrise and the expiration of the first hour after sunset unlawfully and wilfully take or destroy or attempt to take or destroy any salmon or trout or fish in any such water as first mentioned shall, on conviction before a justice of the peace, forfeit and pay any sum not exceeding *five pounds*, and if in any such water as last mentioned he shall, on the like conviction, forfeit and pay any sum not exceeding *two pounds* as to the justice shall seem meet.

Saxing as to angling.

A.D. 1871.

Trespass:
owner au-
thorised to
demand red,
&c.

225. If any person shall at any time be found fishing against the provisions of this Act, the owner of the ground, water, or fishery where such offender shall be so found, his servant, or any person authorised by him may demand from such offender any rod, line, hook, net, or other implement for taking or destroying fish 5 which shall then be in his possession; and in case such offender shall not immediately deliver up the same, may seize and take the same from him for the use of such owner: Provided that any person angling against the provisions of this Act between the beginning of the last hour before sunrise and the expiration of the first hour 10 after sunset from whom any implement used by anglers shall be taken, or by whom the same shall be so delivered up, shall by the taking or delivering thereof be exempted from the payment of any damages or penalty for such angling.

Otter,
strokehaul,
&c. pro-
hibited.

226. It shall not be lawful, in any fresh water at any season of 15 the year, to use for the purpose of taking fish, any otter, lyster, spear (except an eel spear for taking eels), strokehaul, tree draw, or gaff (except when the latter is used solely as auxiliary to angling with rod and line, or for the purpose of removing fish from any legal weir or box by the owner or occupier thereof), and if any person 20 shall offend against this provision he shall upon conviction thereof forfeit and pay any sum not exceeding *ten pounds*, and shall also forfeit such implement and the materials thereof.

Penalties on
illegal fish-
ing.

227. If any person shall, between sunset and sunrise, have or use any light or fire of any kind, or shall at any time have or use any 25 spear, gaff, strokehaul, or other such instrument, with intent to take salmon or trout in or on the banks of any lake or river, or if any person shall be found at any time chasing, injuring, or disturbing spawning salmon or trout or salmon or trout on the spawning beds, or attempting to catch them in such places (except with rod and 30 line only, within the lawful period), every person so offending in any of the cases aforesaid shall forfeit all such instruments, and shall also forfeit and pay any sum not exceeding *ten pounds*.

Illegal pos-
session of
spawn, &c.

228. If any person shall wilfully take, sell, purchase, or have in his possession the spawn, smolts, or fry of salmon or of trout or of 35 eels, or in any way or by any device wilfully obstruct the passage of the said smolts or fry, or injure or disturb any such spawn or fry, or any spawning bed, bank, or shallow where the same may be, such person shall forfeit and pay a sum not exceeding *ten pounds* for every such offence, and all nets, engines, and devices used in the 40 taking of the same, or whereby any such injury shall be caused, shall be forfeited.

229. If any person shall at any time, whether in or out of the close season, take, kill, destroy, injure, expose to sale, or have in his possession any slats, kelts, foul, unclean, or unsensonable salmon or trout, or any part thereof, such person shall forfeit and pay any sum not exceeding *five pounds* for every such fish so taken, killed, destroyed, exposed to sale, or in his possession: Provided always, that if any person shall take or catch any such fish accidentally, with a legal and licensed instrument, and return the same immediately to the water without injury, as far as is practicable, such person shall not be liable to the penalty aforesaid.

A.D. 1871.
Destruction
of foul
salmon :
Penalties.

230. No slats, kelts, foul, unclean, or unsensonable salmon or trout caught at any time, and no salmon caught during the annual close time for salmon in the district where it is caught, shall be exported or entered for exportation from any part of Ireland to parts beyond seas, and any part of the United Kingdom shall be deemed for the purposes of this Act to be parts beyond seas.

Penalties on
exportation
of foul
salmon.

231. All salmon exported or entered for exportation in contravention of the last section shall be forfeited to the board of conservators and destroyed by them, and the person exporting or entering the same for exportation shall be subject to a penalty not exceeding *ten pounds* in respect of each salmon so exported or entered for exportation.

Forfeiture of
unclean
salmon.

232. No salmon shall be sold or exposed for sale in Ireland from the *fourteenth day of September* to the *thirty-first day of December* in each year. No trout shall be sold or exposed for sale in Ireland from the *fourteenth day of September* in each year to the *fourteenth day of March* in the succeeding year. Any person offending against this section shall forfeit a sum not exceeding *ten pounds*.

Close time
as to sale of
salmon and
trout.

233. The burden of proving that any salmon exported or attempted to be exported during such close time is not so entered in contravention of this Act shall lie on the person exporting or attempting to export the same.

Burden of
proof.

PART XXI.—COASTGUARD AND CONSTABULARY.

234. The officers and petty officers belonging to the cruisers of Her Majesty's navy, and the officers and men of the coastguard, at such times and in all such places and subject to such directions and regulations as the Commissioners of Customs shall from time to time think fit to prescribe, may go on board any vessel or boat of any description employed in fishing, and examine the certificate of

Powers of
officers.

A.D. 1871. registry and nets of such vessel, and seize any illegal nets or engines, or any nets or engines used contrary to the provisions of this Act, or any of the byelaws made by said commissioners; the officers and men employed in the coastguard service in Ireland may execute, for the purposes of this Act, on sea or on land, the warrants of 5 any justice or justices as fully as any person authorised to execute warrants of any justice or justices in Ireland may execute the same on land within their respective districts, and may do all such other acts on sea or land in relation to the preservation of the peace among persons engaged in fishing, and the enforcement of the provisions of 10 this Act, as any constable may lawfully do within his jurisdiction.

Roofing.

235. Where any persons to the number of three or more together shall be found by any officer of Her Majesty's navy, or of the coastguard, or any water bailiff or peace officer, by violence, intimidation, or menace, impeding or obstructing, or attempting to 15 impede or obstruct, any person in the lawful prosecution of any fishery, it shall be lawful for such officer of the navy or coastguard, or water bailiff or peace officer so requiring, and also for any person acting by his order or in his aid, to apprehend such offenders and to convey them before a justice of the peace, to be dealt with 20 according to law; and every person so offending by such violence, intimidation, or menace, as aforesaid, and every person then and there aiding or abetting such offender, shall, upon being convicted thereof, forfeit and pay for every such offence such penalty not exceeding *twenty pounds* and not less than *five pounds* as to the 25 convicting justice shall seem meet, together with the costs of the conviction, which said penalty shall be in addition to and independent of any other penalty to which any such person may be liable for any other offence against this Act.

Assaulting officers in the execution of their duty.

236. If any person shall assault, resist, or obstruct any officer of 30 Her Majesty's navy or coastguard, or any person acting under him or them, or any water bailiff, in the execution of any of the powers conferred on him or them by this Act, or by any byelaw to be made in pursuance of this Act, or if the master of any fishing vessel shall refuse to produce his certificate of registry when thereunto 35 required by any such commissioner, officer, or person, every person so offending shall for every such offence forfeit and pay any sum not exceeding *ten pounds*.

Power of constabulary.

237. The officers and men of the constabulary force in Ireland (subject to such orders and restrictions, in respect of their being 40 employed to enforce such regulations as shall from time to time be made by the Inspector General of the said constabulary force, with

the approbation of the Lord Lieutenant) shall have all the powers, privileges, and authorities by this Act conferred upon water bailiffs appointed hereunder to enforce the regulations herein-after mentioned, (that is to say,) all regulations made by this Act, or under any authority derived therefrom, for the observance and enforcement of the close times for salmon, trout, and eels, respectively, and for the free passage of those fish during such close times, and for the making and maintaining of openings, the removal of obstructions, and all acts, matters, and things to be done or prohibited during such close times respectively; and also all regulations of or under this Act prohibiting any person wilfully taking, selling, purchasing, or having in his possession the spawn, smolts, or fry of salmon, trout, or eels, or in any way obstructing the passage of smolts or fry, or injuring or disturbing any such spawn or fry, or any spawning bed, bank, or shallow where the same may be; and also all regulations of this Act prohibiting any person taking, killing, destroying, exposing to sale, or having in his possession any black, foul, unclean, or unseasonable salmon or trout; and also all regulations of this Act prohibiting any person in any season of the year in any millpool or milldam, or in any works appurtenant to any mill or factory, or in any of the watercourses leading the water to or from such mill or factory, placing, laying, setting, or drawing any net, gnet, creel, or other engine, or using any means or device whatsoever (save and except rod and line used subject to the provisions of Act) for the purpose of taking, destroying, or obstructing any salmon or trout, or the smolt, spawn, or fry thereof; and also all the regulations of Act prohibiting the owner or tenant of any eel weir taking or suffering to be taken therein any salmon or trout, or salmon or trout fry, or spent salmon; and also all the regulations of the Act, or of any byelaw prohibiting, between sunset and sunrise, the having or using any light or fire, spear, gaff, strokehaul, or other such instrument, with intent to take salmon or other fish in or on the banks of any lake or river, or chasing, injuring, or disturbing spawning fish, or fish on spawning beds, or attempting to catch fish in such places (except with rod and line only within the lawful period), or damming or teeming, or emptying any river or millrace for the purpose of taking or destroying any salmon or trout.

238. All officers and men of the navy or coastguard service, and of the constabulary, and any person appointed by or acting under the authority of the inspectors, when and as often as they, or any of them, shall, in any fishing weir, net, or contrivance, during any close time, find any passage shut, closed, or obstructed, or

Power of officers, &c. as to obstructions, &c.

A.D. 1871. during such close time in any place find any net or other contrivance placed or used where the same is now by law or may hereafter be prohibited by any byelaw by the inspectors, or shall at any time find any obstruction in the Queen's share or free gap through or over any fishing or other weir, or in the sluice passages appurtenant to any mill or factory at any time when the sluice gate of same shall be open, may open such passages and remove all such obstructions, doing no unnecessary damage, and may seize and remove all nets or parts of nets which may be found so as aforesaid placed or used contrary to the provisions of this Act; Provided always, that nothing herein contained or done in pursuance of the same shall exempt any person from the penalties and forfeitures in and by this Act prescribed in respect to any of the matters aforesaid; and provided also, that none of the parties or persons hereby authorised to open such passages or remove such nets or obstructions shall be liable for any damage caused by the opening of such passages, or removal of such nets or obstructions, unless such damage shall be unnecessarily, wantonly, or maliciously done.

PART XXII.—WATER BAILIFFS.

Appoint-
ment of
water bailiff.

239. Any board of conservators or person interested in the preservation of the fish of any river or lake, or the owner of any fishery in any river or lake, or of any salmon fishery on the seacoast, may appoint during pleasure, by warrant in writing in the form herein-after contained, water bailiffs for the protection of the fisheries on such part of the seacoast, or in any such lake or river, or the tributaries thereof: Provided always, that no such bailiff shall be empowered to act as such until his appointment shall have been approved of by two or more justices assembled at some petty sessions holden in the district within which such water bailiff is to act, who shall, by certificate at foot of such warrant, in the form herein-after mentioned, signed by them, signify such approval; and provided also, that the inspectors may from time to time, upon complaint made to them, revoke such appointment, and dismiss any such bailiff, and approve of the appointment of such other person as shall be appointed in the place of the person so dismissed.

FORM OF WARRANT FOR A WATER BAILIFF.

" I A.B. [or we A.B. and C.D., as the case may be,] of [name the place or places of residence] do hereby appoint D.E. of [name the place of his residence] a water bailiff, to protect the fishery of [name the fishery, river, or seacoast, as the case may be], and the said D.E. of [name

" *the place of his residence*] is hereby authorised to do all lawful acts A.D. 1871.
 " as such water bailiff, according to the provisions of the said Act. —

" (Signed) *A.B.*

" We, the undersigned magistrates, assembled at petty sessions,
 5 " do hereby approve of the above appointment. In witness whereof

" we hereunto subscribe our names this day of, &c.

" *E.F.*

" *G.H.*"

240. If any person shall act as a water bailiff without having Penalty on
bailiff acting
without
authority.
 15 his appointment approved as aforesaid by two justices, and un-
 revoked by them, every such person shall, for every such act, forfeit
 any sum not exceeding *ten pounds*.

241. Every water bailiff appointed as aforesaid shall be em- Water bailiff
shall have
powers of
constable.
 15 powered to exercise the powers and authorities of a constable for
 the enforcement of the provisions of this Act, and shall be at liberty
 at all times and seasons to enter into and pass through or along the
 banks or borders of any lakes or rivers frequented by salmon or
 trout, or of the tributaries thereof, for the protection of the fisheries
 whereof he shall be so appointed as aforesaid, and with boats or
 20 otherwise to enter upon all such lakes or rivers, and to enter upon
 and examine all weirs, sluices, milldams, millraces, and water-
 courses communicating therewith, and to pass along the same, and
 to enter any boat or boats engaged in fishing, and to examine all
 nets, and to seize all illegal nets, engines, instruments, and devices,
 25 and all nets, engines, and instruments when used illegally, and to
 do all such other acts and things as he shall be required to do by
 the byelaws of the commissioners, or by any warrant issued by any
 justice or justices in conformity with the provisions of this Act, and
 the production of such appointment, with such certificate at foot
 30 thereof, shall be sufficient warrant for such water bailiff so acting in
 any of the cases aforesaid; but no such water bailiff shall enter any
 garden enclosed with a wall or paling, nor any dwelling house or
 the curtilage thereof (except where the ordinary road or passage to
 any weir, dam, or dyke shall be through any such garden or curtilage
 35 as aforesaid), save when thereunto authorised by the warrant of a
 justice of the peace as herein-after provided.

242. No license or other duty shall be payable on any gun, pistol, No license
duty payable
on fire-arms
carried by
bailiffs.
Search
warrant.
 or fire-arm carried by a water bailiff in the execution of his duty,
 where he shall be permitted by the board to carry fire-arms.

40 243. Any justice of the peace, upon an information on oath
 that there is probable cause to suspect any breach of the pro-

[227.]

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A.D. 1871. visions of this Act to be committed, or any salmon illegally taken, or any illegal nets or other engines to be concealed within any of the grounds and premises herein-before excepted, or any other grounds or premises, may, by warrant under his hand and seal, authorise by name any water bailiff or other person to enter such premises for the purpose of detecting such offence at such time or times, in the day or night, as in such warrant may be mentioned; provided that no such warrant shall continue in force for more than one week from the date thereof.

PART XXIII.—MISCELLANEOUS PROVISIONS.

10

Not necessary to set forth notes or bounds in declaration or indictment.

244. In any action or prosecution for or in respect of any of the trespasses or nuisances mentioned in this Act, it shall not be necessary to set forth in the declaration or indictment the notes or bounds of the place in which the trespass or nuisance complained of was committed, and that it shall be sufficient to state generally that the same was committed within the district in which the fishery or place in question shall happen to be situate.

Limitation of actions.

245. No action or suit shall be commenced against any person for anything done by him by virtue of or in pursuance of this Act until twenty-one days notice thereof in writing shall have been given to such person, or left at his usual place of abode, nor after a sufficient satisfaction or a tender thereof shall have been made to the party aggrieved, nor after six months next after the fact committed, and the defendant in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act, and if the same shall appear to be so done, or if such action or suit shall be brought after the time herein-before limited for bringing the same, or shall be brought within twenty-one days notice thereof, or after a sufficient satisfaction made or tendered as aforesaid, that then the jury shall find for the defendant; and any defendant in any such action or suit, at any time prior to trial had in the said cause, may lodge in court such sum of money as to him shall seem fit in discharge of such action, and that thereupon such proceeding shall be had in relation thereto as in other actions where money may now be lodged in court in discharge of any action pending therein.

Pardon.

246. The Lord Lieutenant may extend the royal mercy to any person imprisoned for any offence under this Act, although he shall

be imprisoned for nonpayment of money to some party other than the Crown. A.D. 1871.

247. Nothing in this Act contained shall take away or in any manner lessen or impair the powers of Her Majesty's High Court of Admiralty, or any other court or jurisdiction, in relation to the removal or abatement of nuisances accruing or occasioned to navigation, fishery, or the passage of fish, by the placing or maintaining or using of weirs, fixed nets, or other contrivances, or extend or be construed in any manner to affect the estate, right, title, interest, franchise, royalty, prerogative, or jurisdiction vested in or appertaining to the Queen's most Excellent Majesty, Her heirs or successors, in right of her Crown or otherwise howsoever.

*Saving of
powers of
Court of
Admiralty,
&c.*

Salmon Fisheries (Ireland)
(No. 2).

A

B I L L

To consolidate and amend the Laws relating
to the Salmon and Inland Fisheries of
Ireland.

*(Prepared and brought in by
Mr. Horan and Mr. Henry A. Herbert.)*

*Ordered, by The House of Commons, to be Printed,
4 July 1871.*

[Bill 227.]

Under 9 oz.